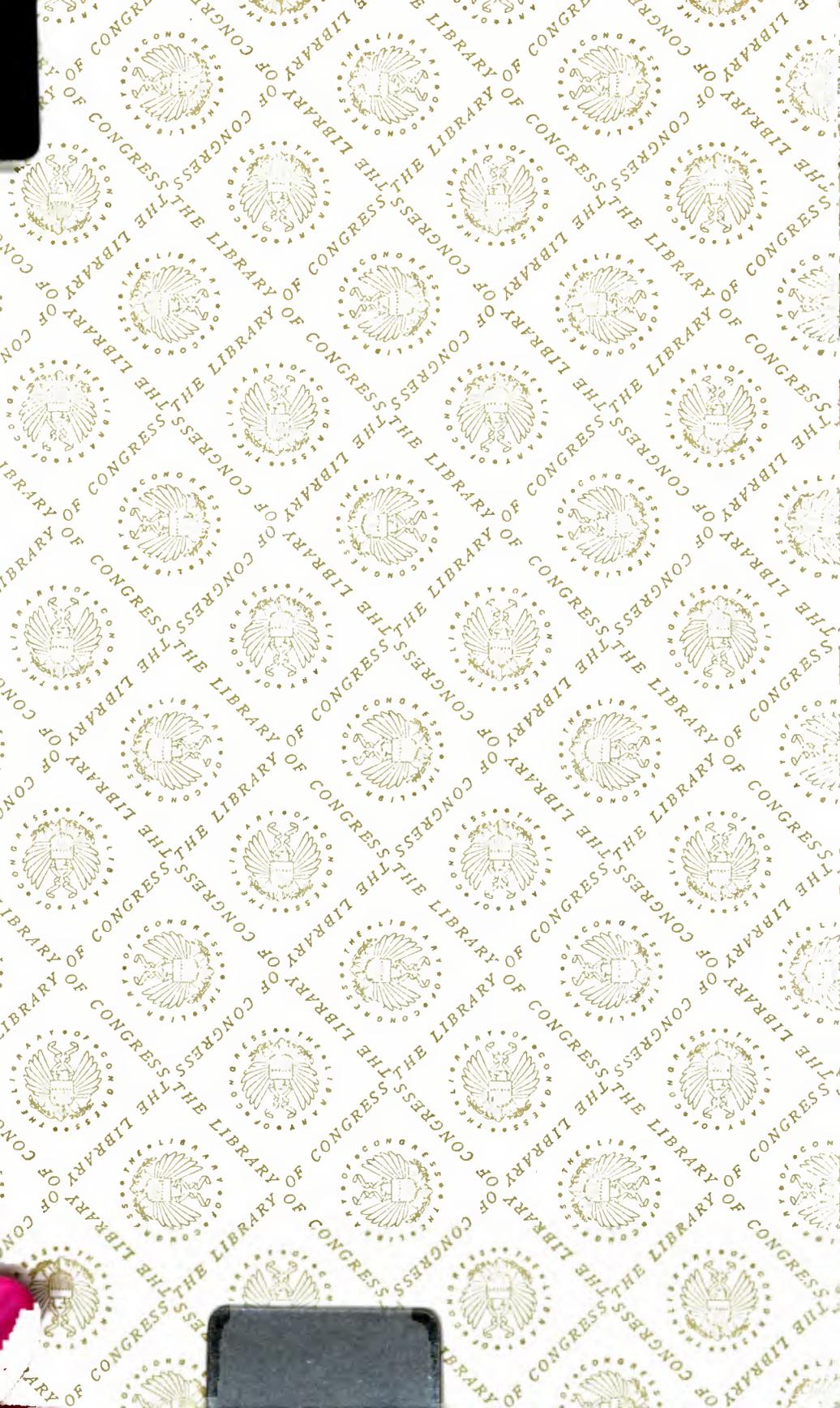
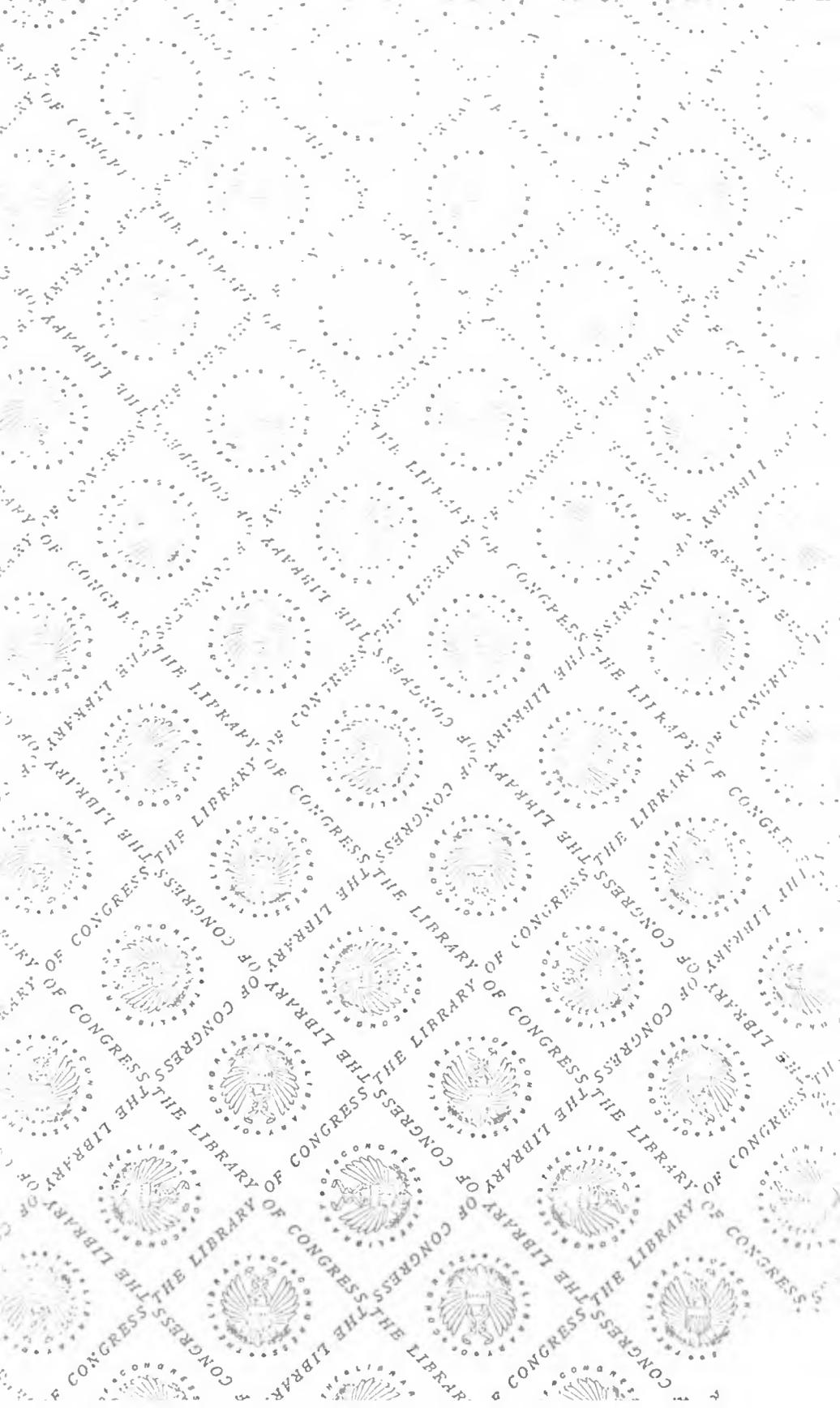


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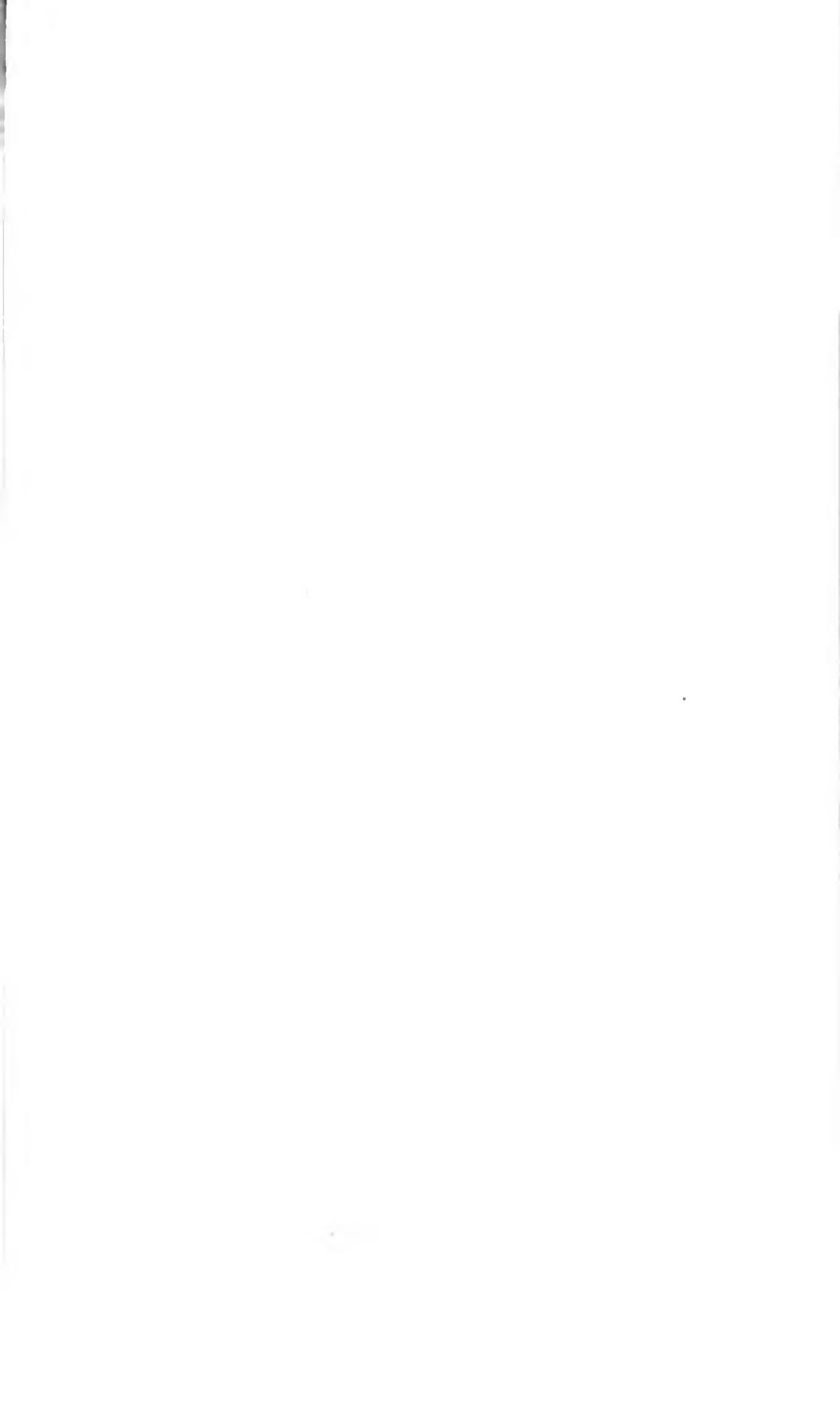
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PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

4-JAN 1974

HEARINGS BEFORE THE SUBCOMMITTEE ON POSTAL SERVICE *Limited States. Congress.* OF THE *House.* COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 15511

A BILL TO AMEND TITLE 39, UNITED STATES CODE, WITH
RESPECT TO THE ORGANIZATIONAL AND FINANCIAL MATTERS
OF THE UNITED STATES POSTAL SERVICE AND POSTAL RATE
COMMISSION, AND FOR OTHER PURPOSES

JULY 9, 10, 16, SEPTEMBER 17, 25, OCTOBER 2, DECEMBER 11, 1974

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PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

TUESDAY, JULY 9, 1974

U. S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE.
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 210, Cannon House Office Building, Hon. James M. Hanley (chairman of the committee) presiding.

Mr. HANLEY. Today we began hearings on H.R. 15511, a series of amendments to the Postal Reorganization Act of 1970, which I recently introduced. The hearings will also cover any other proposals for amendments which witnesses may wish to offer.

For the past 18 months, the Postal Service subcommittee has conducted a series of hearings and studies concerning various programs of the Postal Service. These studies have indicated many areas of possible amendments to the law which established the Postal Service in 1970.

I would like to emphasize that I have offered these amendments in the hope that they will engender meaningful debate on some of the crucial Postal Service issues. Also, I should make clear that this initial effort should not be considered all-inclusive. I have placed language in the bill primarily for the purpose of debate. I expect that at the conclusion of these hearings, much of the language and perhaps some of the concepts, will undergo redrafting in order to attempt to achieve a broad consensus necessary for effective congressional action.

I believe that much consideration should be given to the first of these amendments, in which I propose that the Postal Service receive a substantially increased subsidy in recognition of its broad public service function. This subsidy would be annually authorized by Congress. The rising cost of postage has shown us that we cannot have efficient postal service at reasonable cost to the user unless we provide funds to the Postal Service to defray its public service costs. The Postal Reorganization Act anticipates a gradual reduction of subsidies. Therefore, I am proposing that the Postal Service be reimbursed for an amount up to 20 percent of their total operating expenses for the immediately preceding fiscal year.

The legislation is simple, but highly significant because it requires the Postal Service to be accountable for its expenditures and will enable Congress to keep a closer check on Postal Service functions.

By passing the Postal Reorganization Act of 1970, we mandated

the separation of Postal Service matters from politics. We did not, however, abdicate our responsibility to the American people to oversee the functions of the Postal Service in order to assure that all people receive the best possible service.

The second of these amendments would eliminate the break-even concept outlined in the 1970 act. I believe it is essential that we consider both the rising costs and the threatened decline in mail volume that is being incurred by the Postal Service.

If we don't look at these problems, and if we continue to follow a hard line on the break-even concept, postage rates will continue to skyrocket and noneconomic but important postal services could become a thing of the past.

I am submitting several changes in the structure and operation of the Postal Rate Commission. The bill proposes that the waiting period before the Postal Service can put temporary rates into effect should be doubled and I have also provided that no temporary rate can exceed 10 percent of the current rate. I have placed language in the bill making the decisions of the Postal Rate Commission final and not subject to approval by the Board of Governors. This bill would require Senate confirmation of Postal Rate commissioners, and finally, that the Commission would present its budget to Congress annually without change by the President.

H.R. 15511 would also place the Postal Service under the Administrative Procedures Act. It would amend the statutes governing the postal monopoly of letter mail to provide specific statutory exclusions for items which have been historically suspended. There is also a section in H.R. 15511 which would provide the right to transfer for an employee in the Career Postal Service to any other position in the executive branch after 1 year of service.

Finally, H.R. 15511 would give the Postal Service the right to represent itself in court without prior consent of the Attorney General.

I have introduced this bill as a starting point for debate. The subcommittee has scheduled many days of hearings so that all interested parties can come and help refine these amendments and possibly offer additional ones. We will all come together for one reason: to improve through constructive legislation, the Postal Service. I am looking forward to the debate that I hope will develop in the discussion of H.R. 15511.

I think it fair to say that though the Service is now 3 years old, much is left to be desired, and there are many reasons for this. I think that the program of public relations on the part of the USPS leaves much to be desired, so that the problem and the program itself has really not been placed in its proper perspective. We hope that these hearings will assist this problem. I think there is a general tendency to oversimplify the curriculum and tasks associated with the administration of the U.S. Postal Service.

Hopefully, these hearings will lead to some very constructive changes that will enable its administrators to have a better way of doing their job.

I am going to call our first witness, a Member of Congress who, from the very beginning, has evidenced great interest in the U.S.

Postal Service. I know that he was very reluctant back then to see the change that was effected by the Congress, and much of what he said prior to 1970 has proven true.

The gentleman whom we are about to hear from I regard as one of the experts in the Congress on the Postal Service, though he has not served on this committee. It is a pleasure to introduce Congressman Jim Wright of Texas.

**STATEMENT OF HON. JIM WRIGHT, A U.S. REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS**

Mr. WRIGHT. Thank you very much, Mr. Chairman.

After that kind of introduction, I think I would be well advised to rest my case. I do appreciate the opportunity which you and the members of the committee have given me to testify in behalf of my bill and other similar bills that have been introduced to abolish the Postal Corporation and return the Postal Service to its former time-honored status as a function of the Government directly answerable to the people's elected representatives in Congress.

That is what I think ought to be done.

Since our unfortunate experimentation some 4 years ago which turned this essential public service over to a semi-private group, somewhat self-isolated from the influence of the public, we should have had ample opportunity to reflect upon the effect of that decision.

In these 4 years, the service has steadily declined, the delivery of mail has become slower and more impersonal, the user of first-class mail service—in other words the average citizen of this country—has been repeatedly hit by increased postage rates and now pays about 66 percent more for the service than he paid in 1970.

And, in spite of this, the Congress is still subsidizing an enormous postal deficit with tax money, as the Chairman pointed out.

In fact, if I am correctly informed, and I think the gentleman from Iowa agrees to this, the postal deficit for which we are being asked to appropriate some \$2 billion this year is the highest in history.

Honestly, I do not know what further evidence is needed to demonstrate that the abolition of a publicly-controlled post office department and the substitution of a private, semi-secretive board of directors not answerable to the public, was a colossal mistake—one of the worst mistakes Congress has permitted in my personal recollection.

As if those facts were not enough, we also have witnessed a truly horrifying lack of regard for the public—including the arbitrary and unfeeling abolition of identifying community names in post marks, and an order on the part of Postmaster General Blount that postal employees would not be permitted to answer questions of a Member of Congress, which I personally feel was a violation of their basic civil rights.

Also there has been a cavalier disregard for other agencies of the Government exemplified by charging public agencies for use of space in postal facilities, and a reported secret plan deliberately

undertaken to slow down the delivery of first-class mail by discontinuing the sorting of such mail after hours.

And that had the effect of slowing down the delivery of first-class mail.

All of this amounts to a sort of public-be-damned attitude which should not be tolerated by the Congress of the United States. If we tolerate it further, the public might have just cause to consider us spineless. These may seem to be strong words—and I intend them to be—for they proceed from a basic philosophical concept of the role of the postal service in the life of the country.

One of the byproducts of our unwitting change of 4 years ago has been a marked decline in the morale of postal employees. And I think each of you is aware of that. No doubt others of you have received surreptitious comments from dedicated members of the Postal Service—half afraid now to speak to a Congressman—such as I have received.

About a week ago I got a letter from a postal employee who was pleading for an opportunity to come to Washington on his own vacation time in order to talk with me privately about the deterioration in the Postal Service and in the morale of this once proud group of public employees. The following are a few excerpts from that letter:

My father spent 42 years in the old railway mail service . . . I have a total of 30 years toward retirement and shall (soon) be 50—so, you can understand that what I say or believe would hurt me if wrong people know that I was writing to you with any type of complaint . . . The service is not as it should be. The public is not receiving what they are paying for and, in general, they are being lied to about how good the service is—Sir, I would like very much to get a chance to talk to you off the record . . . I don't want to get myself in trouble but I am very much concerned about the postal service.

Now, here is a man who at least believes, whether it is true or not, that if he brings these deficiencies of the Postal Service to the attention of a Member of Congress, he is subjecting himself to dismissal.

As I said earlier, my personal concern stems from a very deep philosophical belief in what the Postal Service should be.

The post office has one purpose in being, and one purpose only—service to the people of the United States.

From its very beginning, the post office has existed not to make money but to serve people . . . all of the people . . . from the biggest business in the most crowded city to the humblest farmer in the most remote wilderness.

That is its function. It always has been.

Of all the institutions of American life, the post office promotes the most humanizing and most civilizing activity of all . . . the free flow of personal communications. Without this, the word "Democracy" would have an incomplete meaning.

The post office is the oldest of Government functions—and the most personal. Before the writing of the Constitution, the Continental Congress authorized money for "post offices and post roads."

The Founding Fathers did not ask whether this service would return a profit to the Government.

They no more expected the post office to return a profit than they expected the Army and the Navy to return a profit.

They knew it would not do so, except in the incalculable dividends of nationhood—the promotion of commerce and public enlightenment, and the invisible ranks of national unity by which the people were able to tie themselves together into a nation.

Without the postal service there could have been no Nation—only a disconnected scattering of isolated settlements.

If profit had been the motive, post roads beyond the Shenandoah would never have been built, and the Ohio and Tennessee Valleys quite possibly never would have been settled.

If profit had been the motive, the Pony Express never would have extended the long figures of civilization beyond the Mississippi.

If profit had been the motive of the postal service, hundreds of thousands of small businesses would have been stymied at birth by prohibitive postage rates. They never could have grown to medium and big businesses and the American economy would have been still-born.

Today the delivery of mail is the life blood of business, and practically every business in America is geared to its dependable flow.

No other function of society comes into such constant daily contact with the average citizen. All of us depend upon it, and it should belong to all of us—not to a corporation. not to some appointive board, but to all of the people.

Only the Congress can be truly responsive, responsible, and directly answerable to the people. Only Congress can keep this Service responsive to the public needs and the public desires. Therefore, the Congress should regain the direct control over the operation of this activity so vital to the public.

That's the way it always was in this country, for almost 200 years, until Congress abdicated its historic authority over this public function in the so-called Postal Reform Act of 1970.

The advocates of change managed to reverse this most basic, fundamental and time-honored concept. Instead of a public institution directly responsible to the people through their elected representatives, we now have a closed corporation privately responsible to a board of directors in whose selection the public has no choice.

Instead of glorifying service, they seem to glorify profit for the bondholders. Instead of expanding and improving service for this expanding Nation, they restrict and curtail service. Instead of going forward, they go backward.

Already the Postal Service Corporation is in the process of denigrating service. The number of daily mail deliveries has been reduced, the expeditious delivery of mail has been retarded, and the cost of postage has increased.

This is not forward movement. This is backward movement.

Higher rates for less service—that is exactly what it boils down to.

And to make sure they get it, we assented to taking the primary decisions on postage rates and postal salaries and postal service out of the hands of Congress and placing them in the hands of a corpora-

tion, with the people's elected representatives reduced to merely rubber-stamping the decisions of the corporation.

I don't know whether you fellows like it. I don't like it.

The former Postmaster General, Mr. Blount, defended this elaborate scheme under the grandiose slogan of "taking the post office out of politics."

Apparently he thought the legislative branch is prone to politics and the executive branch is immune.

Or perhaps he regarded the motives of elected officials as suspect and those of appointed politicians as pure.

But let us be perfectly clear about one thing: He did not take it out of "politics." He simply usurped one longstanding Congressional prerogative and abrogated it to the executive branch.

As one Member of Congress, I never coveted the responsibility of choosing postmasters. That task is not my idea of a political asset nor a pleasant chore. Each time you made one applicant happy, you offended 10 others, each of whom was absolutely certain in his own mind that he was better qualified than the person selected.

But if postmasters are to be chosen by some public official, it seems to me much better for that to be a local official, responsible to the local public and familiar with the personality and qualifications of the applicants, rather than by an appointive political person in Washington.

I dislike being critical of the Administration. I want to cooperate with it in every way possible. I do not want to throw rocks in its path, I want to be part of the solution, not part of the problem.

But I for one cannot willingly acquiesce to so radical a change as has come about in the basic philosophy of public service.

If there is any function of government that is public service and ought to be public service, I think it is the post office.

I cannot acquiesce in substituting profit in the place of service.

I cannot willingly acquiesce in removing from Congress the responsibilities for postage rates and postal service and placing these responsibilities in a semiprivate corporation.

Mr. Chairman, much has been said about the executive usurpation of Congressional powers and responsibilities.

Here is a case where we knowingly gave them away.

If we have any regard for the wishes and convenience of the American public, I think we should act now to take them back.

That is my statement and if there are any questions I might answer, I will be glad to attempt to do so.

Mr. HANLEY. I thank you very much, Congressman Wright, for what I knew would be an excellent statement, and in all sincerity, I say that I regard you as one of the most competent, dedicated, objective Members of the House and if you did not see within the structure something that was wrong, you would not be taking the time from your busy schedule to appear here this morning.

So on behalf of the committee, I express our gratitude for your very keen interest and your willingness to assist us in getting the train back on the track, so to speak. I can only conclude on the basis of what you have said here this morning that the general attitude

throughout your constituency is one of unhappiness with regard to the U.S. Postal Service. Would that be a correct assumption?

Mr. WRIGHT. Yes, Mr. Chairman, that is a correct assumption. We have in my community probably one of the most dedicated postmasters anywhere. He is a career postal servant. He is a man who worked himself up through the ranks. After entering the Postal Service as a mail carrier, he finished college and got his degree. Slowly, but very surely, by active work, he worked his way up to a position where he was appointed postmaster when a vacancy occurred.

It is one of the most popular appointments that ever occurred in our area. He is working very hard to make the thing produce service for the people. But the service itself is very unpopular. People realize they are paying more money to mail a letter and that is not getting there as quickly as it used to. They have been offended by the fact that the public's views were not taken into account when the postmark was removed from the letter, and an impersonal number was substituted, and nobody now can identify as to where the letter came from. They feel this has derogated some of their communities and the standing of those communities. They feel that first class mail users are being asked to subsidize other classes of mail, and that they are not getting their money's worth. They feel the mail has been slowed down. Each of them will cite numerous experiences of letters mailed to them in Washington, letters that did not get there for 6 or 7 days, and I can cite examples of mail the other way. By and large, we are not getting mail through as rapidly as we were. I know there are a lot of reasons for that, including the enormous growth in the number of letters. But I do think the way to keep up with it is to turn it over to people who are not answerable directly to the Congress.

Mr. HANLEY. Further, as I analyze your testimony, I am saddened to note that apparently there continues to prevail a reluctance on the part of postal employees to relate or communicate with you relative to their problems, you as their elected representative. Is this the case?

Mr. WRIGHT. That is absolutely true, and I daresay that it is true in most of your areas as well. They are scared to death. They think they are going to be fired or reprimanded if they tell me anything that they have observed that is wrong with the post office. The morale has declined. It used to be in my observation that the postal employees had the highest morale of anybody in government. They had a competitive attitude. They really believed the philosophy that the mail must go through, and neither snow nor rain nor gloom of night would stay them from the speedy completion of their appointed rounds. They believed it. It was part of their makeup. They enjoyed being a part of a job. They do not feel that way any more, most of them do not. Most of the new guys coming on are not imbued with that philosophy. Those who remember what the post office was once still have a lingering sense of dedication. They tell me the people coming into the post office are taking the job and quitting as quickly as they can get a better job. They are not learn-

ing it to make a career out of it. I don't know how typical that is. I have no statistics that would bear it out or refute it, but I am telling you that that is what they tell me and they come around to me surreptitiously, because they are afraid that if it is discovered that they talked to a Member of Congress, their jobs would be in jeopardy.

I think that is terrible. When anybody in the United States is discouraged from talking with a Member of Congress about a problem, that is a violation of his most fundamental rights.

Mr. HANLEY. As you know, that dates back to the unconstitutional gag rule invoked by the previous Postmaster General, Mr. Blount. Subsequently, we have had the assurance that that gag rule has been put to rest, that a message has been transmitted to the troops whereas they are not to be denied the ability to communicate with their elected Representative to the Congress. We thought that to be a fact, so it is most disheartening to have you relate to us that this reluctance continues to prevail.

Mr. WRIGHT. Mr. Chairman, I am not certain that that is a fact. Undoubtedly, the Postmaster General, Mr. Klassen told you it is true, that an attempt has been made to tell the people the old order is out and no longer operative, but there still remains a reluctance, I suppose based on that, plus the feeling that Congress no longer can protect them, and if they get the axe, they have had it, and they do not have any champion they can come to in Congress to plead for reconsideration. And since the post office is not as answerable to Congress as it used to be, I suppose there is some merit in that.

Let me ask this question, Mr. Chairman, because I do not know the answer to it. At the time that gag rule was put into effect, there was also another injunction by which postal employees were instructed, if a question came to them from a Member of Congress, that they must communicate that question to their public relations branch up here and let that branch answer the question rather than attempting to answer it themselves.

Now, has that been summarily taken off the books as well?

Mr. HANLEY. My understanding is that it has been set aside, and if that employec has a problem, regardless of what its nature is, he or she cannot be denied access to his or her Member of Congress.

I am advised that inasmuch as we are adhering to the 5-minute rule here this morning, I am advised that my time has expired. I want very much to accommodate the gentleman from Michigan who had a question at this point.

Mr. FORD. Just on the gag rule. As you may recall, I offered an amendment to a supplemental appropriation for the post office the first year after Mr. Blount put the gag rule into effect and it was overwhelmingly adopted on the floor, indicating that we did not like this. Mr. Blount, in what I considered in my experience with him to be a characteristic pigheadedness or bullheadedness, chose to ignore it. He took the action by Congress as a challenge to his managerial position, apparently, because he hardened his position.

We have been told that, since Mr. Klassen took over—and we believe that he has been sincere in trying to overcome a number of

these things—the rule is abolished, but unfortunately, there has not been a specific directive to go out in the form that says “As of this day, the rule has been abolished,” and that also applies to the directive with respect to the chain of command for complaints.

If you were to send a direct letter or inquiry, it is my understanding, to the postal corporation now, the postmaster would direct that you be told that there is no such rule being enforced, but there still is not any specific repealer on the books. In a large institution, whether it is an automobile corporation or a postal corporation, my suspicion is that until there is a specific repealer the employees are going to assume that, though they are being told it does not apply any more, since it has not been specifically repealed, it is probably the better part of good sense to consider it still to be in effect.

I don't believe that is what the postmaster intended to have happen, but we will get into that.

Mr. HANLEY. I thank the gentleman, and we will explore this matter on the occasion of the Postmaster General's testimony.

With that, I recognize the gentleman from Pennsylvania, Mr. Johnson.

Mr. JOHNSON. I have no questions.

Mr. HANLEY. Mr. Ford.

Mr. FORD. I would only like to say, Mr. Chairman, that I would like to associate myself with the remarks that the gentleman from Texas has used to describe the progress or lack of progress in the Postal Service under the new corporation. I would say only that that is the nicest way of saying “I told you so,” that I have heard in a long time. I still apologize to Mr. Gross, on the floor, as you know, quite regularly, for the fact I left him after opposing the corporation for a long time. I gave into the great reasoning power of my colleagues and voted for the corporation. I am not sure that it will not work, but I am persuaded that you have described our experience thus far.

I have been impressed with the fact that its recent history has been improving. As one member of the committee, I have had the impression that the present Postmaster General does understand the necessity of not only having things done right but having them appear to be right out there so that the public can understand and for whatever it is worth, I have observed a change for the better.

However, I think the legislation that the chairman has brought before us might provide Members of the House an opportunity to have the feeling that they are going to be consulted in a more regular way than they have been in the past.

Like you, Jim, I agree that appointing postmasters is a very questionable honor to have. The degree to which we were held responsible for every little decision was sometimes unpleasant. My district is very much to Detroit as yours is to Fort Worth. The post office and the people in the post office have somehow lost their identity as the ambassadors of the Federal Government in these small communities. There is now an impersonal sort of reaction to questions from the businessmen and so on. The businessman used to know the postmaster because, for the most part, he was either a businessman like him before he became postmaster, or

started acting like one soon after the appointment. Being the first man who bought the Girl Scout cookies, and so forth is very much part of it. Now, he is becoming like a supermarket branch manager who may not even live in the town where he is acting as postmaster. He has little or no chance of knowing the local businessmen, so he does not know who the wheels and who the movers and the shakers of a little town are.

One of the reasons that people prefer to stay in smaller communities is that they do have an interest in their business and community, and they expect that the ambassador of the Federal Government will recognize them as VIPs. Unfortunately, I am acquiring more and more postmasters who do not understand that. So we have really lost something, and maybe we can get it back.

You appreciate the fact that while you could have been saying "I told you so," to the members of the committee, you were constantly approaching people like me on the committee with positive and constructive suggestion about how we might make things better and I look forward to working with you in the future on this legislation or anything like it.

Mr. WRIGHT. Thank you.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. Gross.

Mr. Gross. Thank you, Mr. Chairman.

I want to commend the gentleman for his statement. I can agree with practically all of it. Also, I want to say that this is the first opportunity I believe I have had on the public record to commend him for his original opposition to the so-called Postal Reform legislation and his continuing opposition.

I also believe he would be willing to join with me in accepting the return of the "sinner" from Michigan, who has hit the sawdust trail and has seen the light.

Mr. WRIGHT. I accept the absolution of sins. I would gladly extend it to my colleague.

Mr. Gross. I thank the gentleman. That represents my sentiment as well.

I believe I had had the opportunity during that rather bitter fight on the House floor to help prepare the wording for the motion to strike the enacting clause which the gentleman from Texas offered. We did our best to defeat it.

Mr. WRIGHT. I think that was the best amendment that was offered to that bill that day.

Mr. Gross. At any rate, what would be your suggestion with respect to a return of the postal operation to the purview of the Congress? Would it be a return to the old system, or Congressional veto power based upon the new concept?

Mr. WRIGHT. Mr. Gross, I guess I want to leave that kind of decision to the members of the committee who are a lot more familiar with the Postal Service than I am.

My idea simply is to abolish the Postal Corporation, to repeal the law by which it was created, to return the Post Office to a department of government and the Postmaster General as a member of the President's Cabinet, with questions of postage rates returned to the

hands of the Congress, and simply resume the operation of the Post Office Department as a fully functioning agency of the Government of the United States responsive and answerable to the Congress of the United States and through them to the people of the United States. That would be my solution to it.

Mr. GROSS. I started out to support reform but on a much more limited scale that would have given the Postmaster General and the top layer of executives in the Post Office Department long tenure. The reform I suggested stopped far short of the corporation idea, and far short of stripping Congress from any oversight over postal operations.

This is where I think the ball was fumbled and lost, in taking all oversight away from the Congress. I still believe, and I hope the gentleman agrees with me that it would be well to divorce the Postmaster General and the top layer of officials from politics by giving them long tenure in office.

Operation of the Postal Department is a \$12 billion a year business and it seems to me that it ought to be something other than a political revolving door. It cannot operate efficiently and well unless the administrative offices of the Postal Service are placed on a long tenure basis.

Mr. WRIGHT. Yes, I would agree with the gentleman as to that. I definitely would agree. He has observed and I have observed, and other members of the committee have observed, in both Democratic and Republican administrations in the past that the Postmaster Generalship has been a plum. In one case it was awarded to the campaign manager of a successful presidential candidate. No doubt he was an able man but he did not know anything about the post office. He had no background, qualifications or experience to take over a public service enterprise of that enormity.

Mr. GROSS. Nor did he have the time to do it.

Mr. WRIGHT. He probably did not, if he was involved in continuous preparation for the next campaign.

I think the same syndrome applied there as has existed in our selection of Ambassadors. There is a tendency to select a fellow because he is able to give a lot of money to one or another of the political parties. He did not know the location of the country to which he was being sent in some cases. He could not speak the language of the man in the street in the country to which he was sent, and therefore, was not a good Ambassador.

In my judgment, I think it ought to have been a man who knew what he was doing, and I say the same thing of the Post Office, the Postmaster General.

All this pious talk about taking it out of politics by which the advocates of this particular change simply meant take it away from the legislative branch and turn it over to the executive branch, was a bunch of hot air. You know there is no reason to believe that because a person is elected he is more subject to politics or less prone to unsavory influences than somebody who is appointed by the Executive, whether it be a Democrat or a Republican. That fellow is a political appointee. It does not make any differences whether Congress has any control over it or not. If the President appoints

him, he is a political appointee and I would agree with the gentleman that it should be somebody who knows something about the post office and wants to make a career out of the post office. Preferably, in my judgment, it would be somebody who has come up through the ranks and has demonstrated knowledge and dedication.

Mr. GROSS. Of all the departments of government, I think one of those that serve us well is the General Accounting Office, the directing head of which is the Comptroller General and he is appointed on a long-term basis. Whether he be Democrat, Republican or Independent, a Member of Congress can get equal and dependable service from the General Accounting Office and it would be my hope that in any reorganization, and I will not be around, apparently to see it, any reorganization of the existing postal setup, that it would be put on a basis of that type.

Now, I do not suppose the gentleman has had time to devote much attention to the bill pending before us. H.R. 15511.

Mr. WRIGHT. I confess that I have not. I am sorry I have not.

Mr. GROSS. It provides for a 20 percent subsidy of the postal service and as the chairman said in his presentation, I believe, it continues the stretch-out of imposition of postal rate increases. It is a continuation in my opinion, in a large measure of what we already have, and I would suspect that the gentleman would not support this pending legislation. I certainly would not. It would take a lot of revision of this legislation to make any part of it acceptable to me.

Mr. Chairman, I thank you, and I thank the gentleman from Texas.

Mr. HANLEY. Thank you, Mr. GROSS. The gentleman from Texas, not Mr. Wright, but Mr. White.

Mr. WHITE. You have probably had a number of the same experiences I have had. When would you judge the service of the Post Office Department or the Postal Service started really declining. When was it known to you?

Mr. WRIGHT. In all candor, I have to say that it became known to me before we created the postal corporation, but the deterioration has proceeded rapidly apace since that time.

Prior to that time, under Postmaster General Blount, the ABCD delivery service which guaranteed 1-day delivery within a downtown area was abolished. The twice-a-day delivery in the downtown sections was abolished and reduced to a once-a-day delivery.

Those things happened before we took this drastic step, but since we have taken this step, and the post office has no longer been answerable to the public through its elected representatives in Congress, I have discerned a more rapid deterioration.

Mr. WHITE. Would you say it is possible the deterioration prior to the creation of this corporation was a design to develop support by the American public for a change, and started with the assumption of the office by Mr. Blount?

Mr. WRIGHT. I do not know. That is conceivable.

Mr. WHITE. I think this started in about 1968.

Mr. WRIGHT. I think that is conceivable. I always hesitate to attribute motives to other people, though.

Mr. WHITE. I don't. I wondered if you had had the same experience.

Mr. WRIGHT. Yes, I began to get a lot of complaints about the Postal Service prior to that time and I'll tell you something else that happened which I think contributed to declining public support for the post office as it previously existed.

This was the series of postal strikes and particularly the one in New York which was settled out by the Postmaster General and in which an agreement was made by the Postal Unions to support this proposition in exchange for a one-time increase in salary. They sold their birthright for a mess of potage, and I think it was a really spineless thing on the part of the Post Office Department to enter that kind of an agreement.

The law said that a postal worker could not go on strike against the Postal Service and that an employee who did so rendered himself ineligible for reemployment. The law in my judgment should have been enforced.

Mr. WHITE. Now, going to the present, do you find a large segment of the population in favor of the reversion of the Postal Service back to Congress, or some drastic change?

Mr. WRIGHT. Dick, I can only answer for the people in my area. I have recently put out a congressional questionnaire, asking some twenty questions. One of those questions is this: I have not tabulated all of them but through yesterday evening—let's see—Question 11. "Should the postal corporation be abolished and Postal Service returned to control by the U.S. Congress?"

In this instance, I have about 74 percent who say yes, and about 19 percent who say no. The remainder do not express an opinion.

Mr. WHITE. I would like to ask a question and see if you have had the same experience I had. Have you found many of the same people who importuned you to change to the Postal Service as it is now are the very same people who are now complaining about the service?

That is, the ones who urged you to support the postal corporation?

Mr. WRIGHT. Some of the business community urged me to support the postal corporation. I don't think they knew what they were talking about at the time. I think they probably had been bombarded by propaganda and I did not have an enormous number of them then urging me to do it but yes, some of those same people now are complaining bitterly about the decline in the service.

Mr. WHITE. In my experience, the Postal Service at that time under Mr. Blount organized throughout my district—and I am sure because I was on this committee at the time—committees to campaign and urge the passage of this legislation. I note that these are the very same people today who are the most vocal in complaints about Postal Service.

I have almost had an urge to thermofax their letters back in those days and send them to those complainers but I have not done that.

Thank you very much.

Mr. WRIGHT. Thank you.

Mr. HANLEY. Thank you, Mr. White.

Mr. Udall.

Mr. UDALL. Thank you.

I appreciate the candid statement my colleague, Jim Wright, who is one of the most able members of the House and a longtime student of postal affairs and critical of various postal administrations has made.

First, I want to congratulate the chairman for this set of hearings for introducing the legislation that he has as a basis for discussion. I think these hearings are important. I hope that out of them will come some very careful consideration by this subcommittee and the full committee, on where our Postal Service is and where it is going.

I would like to address my friend from Texas. It has slipped into the lingo around here that we have a postal corporation. The fact is that there was an original proposal to set up a postal corporation and everyone keeps talking as if we had a postal corporation.

The name of the entity which operates the Postal Service is the United States Postal Service and it is an independent agency of the Federal Government, having some of the attributes of a corporation, and it is somewhat like the Veterans Administration or NASA. I hear on the floor of the House every day and in this committee constantly, references to the postal corporation. We made a very conscious decision 4 years ago when we were considering this legislation not to go the corporate route, because of a number of objections to it. It does have the independence that a corporation would have, but it is not technically correct in any sense to refer to this as a postal corporation.

I do not know that I have any questions. I do want to make one other statement. It has been almost 4 years since this legislation was signed. Those were great days, and I had high hopes, that this thing was going to be a model for the whole Nation. Her whole decline in municipal service, exists, as in the Postal Service, the garbage service, taxi service, train service and every kind of municipal service in this day of inflation and higher prices and social problems.

I must confess that I am very disappointed. I thought within 4 years we would be a long way from where we are now. I have not seen the changes that I thought we would see. I hope we can find some answers. I think these hearings are constructive, and I for one am quite willing now to look at any idea that anyone has to suggest as to how we can improve the situation.

I do not think my friend's answer, of going back to the old system is the right answer. I will tell him that, and then maybe he wants to respond.

We look back to the good old days. The good old days weren't very good. If my friend's suggestion were followed, we would now have 12,000 Republican postmasters scattered throughout the United States; in my judgment, we would have to vote on the question of a 10-cent stamp and I do think the House and this committee would have agreed to the 10-cent stamp, and the result would be that we would be asked either to appropriate either about \$5 billion dollars this year for postal deficits, which would not have been a very

handy thing to do, either, or we would have had to find the money someplace else.

I remember one of my former colleagues on this committee when we had the glory of having an annual pay fight with the postal workers and we had the great glory and honor of raising rates every time we did that and this colleague came in here and he was for the highest rates anybody could propose, and then we came to title II of the bill where we were fixing the rates and he wanted to cut rates and go back to the 4-cent stamp.

He was for low rates for the mail users and for high pay for workers. I am not sure Congress is ready to take back the responsibility, but I am ready to look at that option along with all the others and I appreciate the counsel my very brilliant friend is giving us on it.

Mr. GROSS. Will the gentleman yield?

Mr. UDALL. Yes.

Mr. GROSS. Speaking of the Republican postmasters, that would have been the greatest exodus of Democratic postmasters since biblical times.

Mr. UDALL. We would have had something a lot of them would not have liked if we had been going down this road the last 4 years, because they stopped making appointments when this legislation was introduced and well, I have said enough.

Thank you very much.

Mr. HANLEY. Thank you, Mr. Udall, and the gentleman from Vermont, Mr. Mallary is next.

Mr. MALLARY. I have no questions.

Mr. HANLEY. Mr. Johnson?

Mr. JOHNSON. I would like to ask Mr. Wright a few questions. I don't think you should leave this meeting with the idea that the executive is today appointing postmasters and postal workers and so forth. I would like to clarify that with you.

Your postmaster that you have now, you say he is a career postmaster. Would you know when he was appointed postmaster?

Mr. WRIGHT. Yes, sir, I sure would.

Mr. JOHNSON. What year?

Mr. WRIGHT. 1967.

Mr. JOHNSON. The Democrats were in power then, were they not?

Mr. WRIGHT. As I recall, that is correct.

Mr. JOHNSON. And he, no doubt is a Democrat.

Mr. WRIGHT. To tell you the truth, I did not ask him, but I believe he is a Democrat.

Mr. JOHNSON. My point is, under the old system, despite the fact that he was a great person, and let us say he was a Democrat and the Republicans were in power, or vice versa, he would not have been appointed. But under the present system today, if you have a vacancy in the post office in Fort Worth right now, the career man in that office, the man most qualified to be postmaster in Fort Worth will get that job. You won't have anything to say about it. Of course, the district director will have something to say about it and the most qualified capable person in the Fort Worth office would be

appointed postmaster, or if somebody in that post office just did not have the qualifications and ability to be postmaster, a qualified person from the nearest neighboring town would be brought in to be postmaster.

I believe we do have a true career service today in the Post Office Department. Whether it is good or bad, I am not going to say but presumptively, there is no politics in it.

Take my district, I have a country district and I have not had anything to say about appointing anybody in the Postal System since this law went into effect and of course, before that I did not either, because I am a Republican and we had a Democratic President and Senator Clark of Pennsylvania appointed all the postmasters in my district and I did not have anything to say about it, and by and large, the person appointed was a Democratic Ward leader or city chairman.

It was not anybody from the ranks of the Post Office Department, or the system.

Another thing, you say the morale is poor of the workers. I would think the worker with the knowledge that he is going to be promoted as a career worker and no longer subject to the whims of politics and they have already had their salaries raised 40 percent since 1970, and I can't see why morale should be so poor, as you state, in the Post Office Department with workers finally having some hope that they could get somewhere and eventually be the postmaster.

Mr. WRIGHT. Let me ask the gentleman from Pennsylvania. Do you know anybody who was fired from the post office because of his politics?

Mr. JOHNSON. No, once a fellow got into an office, he kept his job. But you had to be a Democrat under President Johnson or President Kennedy to get a job in my district. The position was generally filled without any reasonable relation to the ability of this fellow. He might have been a good guy around town like you are talking about, but that was about the size of it.

Mr. WRIGHT. I recognize the validity of some of the things you have been saying, Mr. Johnson. I don't think a postmaster should be appointed on the basis of a political affiliation.

I was the one who recommended the postmaster that we have in Fort Worth and maybe that is one of the reasons I think he is such a great public servant. I think he is an able man but he was a career postal employee. I did not pick somebody who had been active in my campaign but someone active in the post office.

I think that is what we ought to do. By doing that, I think I obviated the criticism that might have otherwise occurred, and I have to say that I received criticism on other recommendations I made in other post offices in my district. I don't covet the privilege of appointing postmasters and rural letter carriers but I do believe if some person is going to make that appointment, it might be better to have an elected person make that appointment, one who is responsible to the people. It might be better to have somebody who is familiar with the local people and the personalities of the applicants, because the Postal Service is a service to the people and I think

the worst thing that can happen is to get some sour puss who does not care anything about maintaining good relationships with people, and I just do not believe a member of Congress would do that. He would be silly to do it.

I think you ought to have someone who is well received in the community, who has a sense of community service, who is not, as our friend Mr. Ford suggested, like a branch manager of a supermarket sent in from someplace else without any feel for the local mores and the local traditions and habits, and who just runs a, you know, 8 to 5 operation and then closes up, and the door is closed and you have to come the next day if you want to buy a stamp.

I would rather have some person who is dedicated to the community and the people and who believes in the philosophy of public services and who will go that second mile.

Maybe it was not characteristically true under the old system. I know it was in my area, and I know it was to a greater degree than it is now.

Mr. JOHNSON. I have no more questions.

Mr. GROSS. Mr. Chairman.

Mr. HANLEY. Mr. GROSS.

Mr. GROSS. One question or observation. I don't believe there is anything in law that would prevent the appointment of a postmaster from Hoboken to serve in Fort Worth, Tex., or if they were so disposed, to bring one in from Hoboken, or Secaucus. He might be from any part of the continental United States. I do not believe there is anything in the law to prohibit it.

Mr. FORD. Will the gentleman yield?

I have been informed that the chairman of the full committee is quite pleased by the fact, and I think the gentleman from Pennsylvania should be, that the new postmaster in Buffalo, N.Y., is from Erie, Pa., so Pennsylvania is not doing too badly.

Mr. HANLEY. Well, there has been considerable colloquy about the political appointment of postmaster and when the gentleman from Arizona reminds us that there are 12,000 throughout these great United States, the thought occurred that should the Congress—and I pose this question, Mr. GROSS—should the Congress see fit to revert back to the old system, would the latter part of January 1976 become an appropriate date for the administration?

Mr. GROSS. I would remind the gentlemen I will not be around for that.

Mr. HANLEY. Who knows, you might wind up as postmaster general.

Mr. GROSS. I doubt that.

Mr. UDALL. If elected, I would immediately ask Mr. GROSS to take over the Postal Service. I understand he will be available at that time.

Mr. HANLEY. There you are, your future is cut out for you.

Mr. WRIGHT. And, Mr. Chairman, if you are concerned about longevity of service in the post office, as Mr. GROSS is, I can just see him serving a very long time, because he would not retire until the Republicans got back in.

Mr. HANLEY. Well, if there are no further questions, we will con-

clude this part of our hearing with a note of appreciation again to you, Jim, for your time and your very keen interest in this subject matter. I think it is fair to say that we find ourselves in this situation as a result of the pressures advanced back in 1969, from the Citizens Community for Postal Reform, and back then a number of us thought that actually this drastic step was really not necessary. We felt there were a few basic things that should be done, and that was fundamentally related to the obsolete status of the facilities the system and so forth and that if the Congress could see fit to commit itself on an annual basis for the expenditure of whatever funds were necessary to bring the whole system into the 20th century, why, that would probably be the major hurdle to overcome and then we could be off and running.

To give the devil his due, and I have consistently said this, many overlooked the point that this service processes more mail than all of the other countries in the world community combined and today we are advised that it is processing in excess of 300 million pieces of mail a day, and that being the case, if we allowed the entity a 1 percent margin of error, it would be entitled to better than 3 million mistakes a day.

So, these are some of the facts that apparently have not become matters of public note. It is an enormous operation, and back then I incorrectly believed that by a simple paper conversion we were going to enjoy a miracle that overnight was going to rid the entity of whatever shortcomings it had.

So, again, our deep appreciation for your time this morning, Jim.

Mr. WRIGHT. Thank you very much.

Mr. HANLEY. Our next witness this morning is the Chief Executive Officer of the U.S. Postal Service, Mr. Klassen.

STATEMENT OF HON. E. T. KLASSEN, POSTMASTER GENERAL, U.S. POSTAL SERVICE, WASHINGTON, D.C., ACCOMPANIED BY LOUIS A. COX, GENERAL COUNSEL; RALPH W. NICHOLSON, SAPMG-FINANCE; BENJAMIN F. BAILAR, SAPMG-ADMINISTRATION; EDWARD V. DORSEY, SAPMG-OPERATIONS

Mr. HANLEY. General, in behalf of the committee we are pleased to have you with us this morning, and if for the purpose of the record you will introduce your associates, we will appreciate it.

Mr. KLASSEN. Thank you, Mr. Chairman, but before I do that, I would like to make one observation about the conversation we have been exposed to for the past hour and a half. It reminded me of what I heard on the radio this morning by a Presbyterian minister, who said that there are not just two sides to every story, there are three sides, his side, my side, and the right side.

Mr. HANLEY. So be it.

Mr. KLASSEN. I think it is only appropriate that we have an opportunity to talk about postal reform and that we talk about those things that perhaps ought to be changed.

We appreciate talking about H.R. 15511. Now, as you requested, I will introduce the men at the table with me.

At my left is Ralph Nicholson; next to him is Louis Cox, general counsel. To my right is Ben Bailar, and to his right is Edward Dorsey, who is the operations executive.

With your permission, I would like to comment generally on the features of this proposed legislation, and then ask Mr. Cox to present more specifically our views on each section of the bill and to discuss some of the provisions that we believe should be included in any package of amendments to the Postal Reorganization Act.

Let me say right at the outset that I am more convinced than ever that the Postal Reorganization Act is a workable blueprint.

Last year when I appeared before a joint oversight hearing conducted by the two postal subcommittees, we were all concerned with the slowdown we had experienced during Christmas, 1972. I said at that time that, while we had made some mistakes in the early going, we had also made some important progress, especially in getting some of our capital improvements programs underway and in getting our local managers the budget responsibility and management authority they needed.

Now, a little more than 1 year later, we have made additional progress. In our first 3 years, the Postal Service has faced unprecedented inflationary pressures, increasing mail volume, dwindling transportation options, and the advent of the energy crisis.

Nevertheless, we have set public standards for mail delivery and have been able to improve the speed and reliability of mail service. A massive plant modernization program is well underway. Productivity has increased significantly. The postal work force has stabilized. And we managed to hold back a rate increase for nearly 3 years.

Of course, all of us recognized 3 years ago when the Postal Reorganization Act became effective that we were starting many years behind, and that the correction of that situation was a long-term project, not an overnight one.

At this early stage, we have not fully tested some of the provisions of the act. For example, so far we have had only one rate decision.

In short, Mr. Chairman, we have made a beginning, but it is only a beginning. We have made solid progress, but there is still a long way to go. In my judgment, we have been able to confirm that postal regulation has pointed us in the right direction.

With that introduction, I must say that I have to disagree with the direction taken by H.R. 15511, with regard both to some of what is included and to what is left out. I recall that when you introduced the bill you said it does not represent a final position on your part. I agree with you that now the time has come to make some needed improvements in the Postal Reorganization Act that we can identify based on our brief experience so far. We, at the Postal Service stand ready to work with you to try to solve our problems in any way we can, through legislation or otherwise.

It seems logical to me, however, that proposed amendments to the act at this time should be looked to deal with some of the specific problems we have encountered. We have made several specific proposals formally during the oversight hearings of last year or informally to the committee staff. Mr. Cox will discuss several of these

shortly. But I certainly do not think that the past 3 years have provided any basis for discarding the basic assumptions and policies of postal reorganization.

More specifically, I cannot agree at this time with the bill's proposal to give up an eventual postal self-sufficiency by providing permanently for a large, general subsidy for the Postal Service. Incidentally, it has never been proposed that we be a profitmaking organization. What we are looking for is "better losses."

A subsidy in the amount of 20 percent of postal operating expenses would, of course, require a huge influx of tax dollars. For example, 20 percent of our 1974 budget would provide \$2.3 billion in public service subsidies. This would be far beyond any comparable subsidies provided the old Post Office Department. Nevertheless, I appreciate the concerns which prompted the inclusion of this provision in the bill. We have entered a period of rapid inflation which has caused problems for everyone, in the public and private sectors alike.

Postal costs, and therefore postal rates, probably will continue to rise in the foreseeable future. Until just recently postal services had been considerably underpriced relative to costs. In bringing rates in line with the costs of the services provided, we have to cope not only with rapid inflation, but also with a number of additional charges on the postal system, involving enormous sums of money, which the old Post Office Department never had to bear. For example, Congress recently enacted legislation imposing responsibility on the Postal Service for increases in unfunded liability of the Civil Service Retirement Fund attributable to pay increases granted to postal employees.

But, despite the factors I have mentioned, postal services are, and will remain, in my opinion, a good bargain. I certainly believe that it is too early to surrender that hope.

In talking about subsidizing postal rates, we cannot escape the fact that the public will have to pay postal bills in any event, whether through postal rates or taxes. One of the most valuable perceptions of the reorganization movement was that the best way to encourage the postal operation to be an efficient steward of public moneys was to make it financially dependent upon offering postal services of a quality and at a price that people would be willing to buy. One of the biggest problems with the Post Office Department had been that it had no incentive to be efficient so long as it could expect Congress and the taxpayers to meet whatever deficits it incurred. Moreover, we believe that large public subsidies would result in the uneconomic use of some classes of mail because of artificially low postal rates.

So a permanent general subsidy would shortchange the public in two ways. First, since the public must pay the entire bill, and since everyone isn't a user of the mails in the same proportion that he pays taxes, some would be getting a lot less for their money than others.

Second, such a subsidy would abandon prematurely the idea that a self-sufficient Postal Service is the most efficient one.

Now, I recognize that here are other considerations running through this proposal, particularly in the requirement that the 20 percent subsidy be subject to the annual authorization process. Part of the

idea apparently is to permit the Congress to instill some of the discipline that might be lacking in a Postal Service no longer committed to trying to live within its own revenues.

I think we should recognize that this aspect of the proposal is plainly inconsistent with any motive to inject more money into the system to insulate postal ratepayers from part of the costs of postal service. To the extent that promised appropriations fail, the public will still be paying the costs, whether through higher rates or reduced services.

The additional complications presented by the annual authorization process can only add elements of delay and unpredictability to a program that is necessarily a permanent, not an annual one. We need to concentrate on keeping the Postal Service moving, not slowing it down and making it more complicated.

There was another reason why the Postal Reorganization Act omitted any annual authorization requirement. The act was drafted to take postal decisionmaking with regard to facilities, rates, salaries, and budgeting away from the political battleground. An annual authorization bill would be particularly susceptible to becoming a "Christmas tree" package for special pressure groups.

Thank you, Mr. Chairman. With your permission I will now call on our General Counsel, Louis Cox, to deal specifically with H.R. 15511.

Mr. HANLEY. Thank you, Mr. Klassen. Prior to Mr. Cox' testimony, I would like to offer a comment and perhaps pose a question or two related to your statement. I want it to be made quite clear that in no way is it the intent of this committee that you or the USPS is to be a whipping boy.

The intent of the committee is to objectively analyze what has been going on in the USPS, and wherever we have noted shortcomings, move in the direction of correcting them. In our effort to meet this end, we anticipate and urge your total cooperation.

I think the end result is going to serve the public interest well, and it makes it somewhat simpler, hopefully, for you to master the great challenge which is yours. So I repeat that our intent is hopefully to be helpful.

You say in the high level of postal services at reasonable costs is our purpose. Again that is the purpose of the subsidy we propose in this legislation.

Now do I read you correctly, are you saying that under the present mandate, that is, self-sustenance, that you are going to be able to provide the American public with mail services at reasonable costs? You are firm in your conviction that that will be the case—that the American public is going to enjoy reasonable rates and a good quality of service, with you operating under the mandate imposed upon you by the Postal Reorganization Act of 1970—is this what you are telling us?

Mr. KLASSEN. Mr. Chairman, we all have a different definition of what reasonable rates might be.

Mr. HANLEY. Let me clarify that. As you know, when our Founding Fathers were writing the Constitution—and I have said this a good number of times—their intent was that America be an informed

citizenry, and that all Americans would enjoy a decent standard of living.

That was their intention way back then, 198 years ago. They knew that this was going to be costly from the standpoint of the U.S. Treasury, but their point was to make this service available to every American regardless of his or her economic or social standing.

So that is what we mean by reasonable costs. That is the definition that I sense they had in mind back then, so that we are not going to price this service away from those who happen to be on the lower level of the economic ladder:

That is my interpretation of reasonable costs, so that social security beneficiaries, where they may be, would not be deprived of the ability to send really as many first-class letters as they wanted to, so that that business entity, and of course this has always been regarded as the chief artery of commerce, because it generates the gross national product, and the economy, and it has been highly dependent since the very beginning upon reasonable rates of mail.

That is what our Founding Fathers had in mind way back then. Now let me remind you, and I have said this to Mr. Cox before, that if this entity continues and find it necessary to continue to move in the direction of increasing rates, then you will have not a foot to stand upon with regard to the preservation of the private express statutes. The Constitution does not allow us to deny private enterprise the ability to prevail, and if we price this service beyond their economic reach, then along with this we have got to provide them with the ability to find another way.

So I would hope very much that this would be taken under consideration with regard to your position on the matter of subsidies.

Mr. KLASSEN. Mr. Chairman, this has been our objective. We recognize what you have said, and I agree with much of what you said. I must remind you however, that we are faced with inflationary pressures that the founding fathers didn't confront.

Mr. HANLEY. You have said yourself here that you are faced with this inflationary spiral. Then if you are going to meet your overhead with that in mind, obviously, then, the price of mail is going to be priced beyond the reach of the average American citizen, and beyond the economic capacity of major mailers.

So that is another consideration contained in the subsidy proposal. Some years ago, in fact at the outset back in 1970, when this act was enacted, into law, we did not anticipate the inflationary spiral to continue, like your people have told us, for instance, that when gasoline is increased by 1 cent a gallon, it adds to your overhead by \$1½ million.

Mr. KLASSEN. \$3½ million.

Mr. HANLEY. Or whatever it is. So obviously you have to recover this money somewhere, and again you are going to be faced with the negotiation of another labor contract in the not too distant future.

So I find it very difficult to perceive how the American people, American business, is going to be able to enjoy the service of the USPS at reasonable rates under the mandate.

Now I don't want to burn up all of the time here, but I just have to comment on some things you have said.

Mr. KLASSEN. May I comment for a minute, Mr. Chairman?

Mr. HANLEY. Yes.

Mr. KLASSEN. The proposed legislation does not in itself show us how to save money or reduce the costs. It really shows us, rather, how to shift costs away from the mail user and on to the taxpayer. If the Congress would establish—

Mr. HANLEY. May I interject at this point? It is not the intent of the Congress to show you. You are the chief administrator. You are the chief executive. It is incumbent upon you to devise the methodology that provides efficient service at the right figure, and again, that would relate to the authorization provision in the bill.

So that someone, you, actually, would have to be accountable at certain times through the authorization process, and that merely means that you come forth to the table, as you are, and you relate the necessity for these expenditures.

So it is not the intent, nor is it the responsibility in the legislative branch, to show you or your team how to administer the USPS.

Mr. KLASSEN. It may not be the intent, but nevertheless this frequently creeps into the conversations we have had with members of Congress, as to how we go about running our Postal Service, and obviously I respect this, because we have had from a number of members of Congress on an individual basis, particularly, some very constructive suggestions that have been helpful to us.

We are only interested in one thing, and that is trying to do the job that was legislated for us.

Mr. HANLEY. I can appreciate that, and I think very honestly that that is your mission, and we look very much to be able to help you and I don't want to consume anymore time at this point.

I want to recognize the gentleman to my right, Mr. Johnson, in the event that he has any comment on your statement.

Mr. JOHNSON. Well, I personally think that it is a very frank statement, and I can't help but feel that under the circumstances, with rising costs, and the increases in the salaries and wages of postal officials and then the unprecedented increase in gasoline costs that you have shouldered a tremendously great financial burden, and I can't help but feel that with the tools that you have had available, that you have done a pretty fair job.

I think right now we are on the threshold of making the thing really take off. You have had 4 years now, and you are getting these postal centers established with automatic scanners and the type of automatic machinery, and you are resorting to air travel more and more and more.

I can't help but feel that with the cooperation of Congress and you are cooperating with us that we can really build the type of system that we all contemplated 4 years ago. So I am not as pessimistic as Mr. Wright is about the postal situation. We have to build I think on what we have got, and that is the purpose of these hearings.

Whether Mr. Hanley has in mind keeping the first class mail rate at 10 cents and then having the taxpayers pay all costs above

that, that should be brought out in these hearings here. It certainly would eliminate any further rate hearings on anything and be just a question of how much money you are going to need to run the Post Office Department over and above what is considered a reasonable rate at the moment.

So we have a lot of things to really look into, the way I look at it. May I ask Pete Dorsey with respect to mail service between here and Fort Worth, Tex., how is it any different today than it was four years ago?

Do letters arrive down there a day sooner, a day later or what is the situation?

Mr. DORSEY. I think it is as good, sir, as it ever has been, if not better. We fly almost all our mail now, whether it is first class or air mail. I don't know any reason why the service would be any worse today. You can always come up with horror stories, and when you move 300 million pieces of mail a day, you are going to have a horror story occasionally.

I don't know of any particular problem in Fort Worth. I know the Postmaster in Fort Worth, and I agree with Congressman Wright, that he is an able postmaster. I am sure if there were problems there, the postmaster would be the one to correct them. I can check it out for you.

Mr. JOHNSON. I would be interested in knowing. Mail from Washington, D.C., in 1970 what was the schematic pattern of first class mail in Washington, D.C. for Fort Worth, and what percentage of it was by air travel and what percentage by surface travel, and what the situation is today?

Mr. DORSEY. Probably the situation in 1970 was this, at that time we were moving first class mail on what is known as a "space available basis." This means we tendered it to the airlines and it went through as soon as space was available. The airline had a required number of hours in which they could keep it, and then they would give it back if they could not move it.

Since last October we have changed that policy so that now we move that mail on a space allocated basis rather than space available basis, so we get a more positive movement of mail on a schedule basis.

That has introduced a high degree of consistency in the mail moving between Fort Worth and Washington. You have to recognize that the Postal Service depends almost entirely upon the airlines for transportation. In Washington, we have some particular problems in that planes cannot leave National Airport after 10 o'clock at night, so if mail coming off Capitol Hill is too late to make that dispatch, it must stay until the next day, because there is no transportation out.

Those are some of the kinds of problems that the public generally is not aware of. We are now working trying to get an air taxi in and out of Washington National Airport after 10 o'clock at night, so that we can move more mail.

Mr. JOHNSON. Thank you. My time has expired.

Mr. HANLEY. Thank you, Mr. Johnson.

Mr. Ford?

Mr. FORD. Thank you, Mr. Chairman.

My question, I guess, Postmaster General Klassen, are addressed to the statement of Mr. Cox. You say here in your statement that you intend to have him comment on the specifics. I have an advance copy, and I am not going to use too much time, because I wanted to get into those recommendations with you and with him.

However, at the bottom of page 5 after devoting time to criticism of Mr. Hanley's proposal for a 20 percent subsidy subject to an annual authorization process, you say there was another reason why the Postal Reorganization Act omitted any annual authorization requirement.

The act was drafted to take postal decisionmaking with regard to facilities, rates, salaries and budgeting away from the political forum, and you say that an annual authorization bill would be particularly susceptible to become a Christmas tree package for special pressure groups.

Who in fact has the responsibility presently for making the policy decisions with respect to facilities, rates, salaries and budget?

Mr. KLASSEN. The Board of Governors.

Mr. FORD. We had the Chairman of the Board of Governors up here who indicated in a rather sad story the number of times that they convened, the amount of time that the respective governors put together, and when we questioned him about rate policy, for example, we discovered that until that time—maybe counsel can tell me when we had that.

Mr. Cox. It was May a year ago, Mr. Ford.

Mr. FORD. Up to that time, the Board of Governors had not had an opportunity to get involved in ratemaking policy except for a brief review of a rate recommendation package coming from the Rate Commission itself.

Can you tell us whether or not the Board of Governors has developed a more regular pattern of meeting now and what the pattern is? I realize this is your boss in effect, and they have on at least one important occasion overruled you when I thought you were very right.

What is the pattern now of their meeting and participation in the regular consideration of these factors?

Mr. KLASSEN. First of all, Congressman Ford, I am not familiar with the conversations you had at the time with the Chairman of the Board. I was not here. All I can tell you is that if I had given you answers to those questions, one thing I should have said was that rate making was first of all processed by the independent Postal Rate Commission which makes a recommendation to the governors.

The Board of Governors meets at least once a month, and they take a very active part in all phases of economics and policies that concern the Postal Service.

They are the final decisionmakers. There are several committees of that Board which work diligently on some of these projects.

Mr. FORD. We recently passed a piece of legislation here, a watered down version of the bill I worked on for several years. In my case there was a particular interest I had in the book publishing and in the people who were the ultimate payers for these costs, the libraries,

schools and similar institutions, across the country. We found it necessary to legislate in that area because we were here adopting a specific policy that, notwithstanding the fact that we could not stretch out these rates without foregoing income, the overall public policy of this country to in effect subsidize the dissemination of that kind of information was so strong that Congress was willing to continue it at a limited rate.

Do you really think that the Board of Governors and the Rate Commission, without being amendable to the Congress in an authorization bill, should be final arbiters of that kind of public policy decision?

Mr. KLASSEN. I do, yes.

Mr. FORD. Don't you think that, if the Congress determines that we should perform a service through your Federal agency and then reimburses you, of course, for the cost of that service out of the general revenues in Government, that is a decision better made by the Congress than by the Board of Governors and the Rate Commission?

Mr. KLASSEN. Well, Congressman Ford, I have said on many occasions in this room that if the Congress has reason to make special provisions for select groups of people, mail users, that is their prerogative and their privilege, as long as the Postal Service is reimbursed for the cost of handling the mail.

Mr. FORD. Don't you see a somewhat different duty to be performed here? The Rate Commission in principle is to be a sort of a wholly neutral arbiter of your recommendations for rate increases or decreases, and mail users' response to that. They became a kind of a hearing panel forum where questions are developed on the merits of the rate change, and then that recommendation is subsequently subject to review by the Board of Governors.

However, both the Rate Commission and the Board of Governors are operating under an admonition from us to carry the mail at a break even cost. If, as a matter of public policy, the Congress decides, as it may well do in the future, that particular kinds of mail have an importance that transcends the secondary question of whether—in other words, given a choice between whether you carry something at a profit, or whether you make it possible for people to have free access to books and magazines, you come down on the side of free access and pay the costs of doing that.

How is it possible for the Rate Commission and the Board of Governors, without, at some stage, the intervention of the Congress, to ever make a determination of that kind to give that kind of priority to a public policy of that sort?

Mr. KLASSEN. I think the Congress has just enacted some legislation to provide what you were asking about.

Mr. FORD. We were forced into that by the fact that there was no other way to get at it. Mr. Hanley's bill would provide an automatic process where once a year the Congress would be faced with the responsibility of deciding either you are going to keep saddling the Post Office with this and paying for it, or you are going to cut it back.

It would seem to me over the long haul that would be more efficient than passing a separate bill every once in awhile of 3 or 4 or 5 years duration and waiting for another group to come in and try to get another piece of legislation.

Those are more likely to the Christmas trees than an annual authorization bill, aren't they?

Mr. KLASSEN. The management and the Board of Governors encouraged Congress to take such action.

Mr. FORD. Yes,, we appreciate that.

Mr. KLASSEN. They were not pressed into this by our lack of action.

Mr. FORD. Isn't this why it is such a good example? You were persuaded that that was a good policy and your people were here supporting that legislation. I applaud you and your people for that, but the fact is that you were here because you had exceeded the limitations of your power either through the board or the rate commission.

You had to take the next step of looking toward legislative assistance, because to do what we did legislatively would seem to me to be inconsistent with the charge of the rate commission. Some of the people involved in the rates themselves might not agree with that, but it seems to me under the present setup any deliberate decision to carry something at less than cost for whatever period of time is one that Congress should have to make.

Mr. KLASSEN. Mr. Ford, I want to say first of all, before I specifically respond to your comment, that I fully appreciate and recognize that any service organization that deals with all of the people all the time as we do in a very fundamental service, and that there is no question but that the Congress has a prime obligation to make sure that service is working in the interests of the American people.

I recognize this oversight responsibility. I want to say to you I think we have made some real progress in our relationships with Congress in the last year. We have met once a month. I think there has been some very constructive things coming out of these sessions. We are not sitting here saying that we know all the answers, because we recognize that Congress has this fundamental obligation, and we are trying to get that message across to our people.

I take exception to some of the comments made here earlier about our people in the field feeling they did not have access to Congress. This is wrong. That kind of a statement is wrong. It is not supported by the facts. We have contrary evidence every day all over the country, and we have encouraged it.

Mr. FORD. My time has expired. I would call your attention to the fact that during testimony of the previous witness, I made the observation that you had convinced me that under your leadership there was a change in the attitude of the Postal management toward cooperation with the Congress.

However, having said that, all I have said is that Ted Klassen, the individual, has developed a personal approach which he is passing on to his people. The question is, if you are not here tomorrow, what do we do, go through another period of sparring?

What we are talking about here is now how well this committee or this Congress gets along with Ted Klassen. It is what the real role of the several managements levels—of the decision maker—is going to be in the future, and are they going to have a responsibility in this regard.

So I hope that none of the remarks that I am making are interpreted by you to be in any way critical of the way you are handling the job. It is a question of what the role of the Postal Service, as Mr. Udall would prefer us to call it, is vis-a-vis the Congress.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. Mallary?

Mr. MALLARY. Mr. Chairman, thank you for the opportunity, I appreciate the Postmaster General's testimony. I think it is worthwhile, after some of the dialogue that we have had here, to point out the sentence that is in the testimony on page 4 which pointed out very clearly the fact that we are talking about subsidizing postal rates, and we cannot escape the fact that the public will have to pay the postal bill in any event. whether through postal rates or taxes.

I am a little concerned by the illusion that, by subsidizing the postal service, we can somehow ease the burden on the American public. There is one concern I have, and it is allied to what Congressman Ford was talking about, and that is with regard to the decisions the Postal Service makes, with regard to the type of subsidization or assistance given to certain classes of mail.

I understand, and you can correct me, in the postal rate-making structure, about 50 percent of the total costs are attributed costs and about 50 percent are institutional. That is approximately correct?

Mr. KLASSEN. That is approximately correct.

Mr. MALLARY. And the law provides that at least all of the attributed costs be covered by each class of mail. Thus, some classes of mail just barely cover attributed costs and other classes of mail must bear the institutional costs. I gather that first class mail has been one of those classes which has borne a disproportionate share of the institutional costs.

Mr. KLASSEN. Do you want comment on that?

Mr. MALLARY. Basically, my question is, is not a policy decision being made by the board of governors as to which classes should be subsidized by postal rate payments, and which classes of mail should not be subsidized by the decisions made on relative rates?

Mr. KLASSEN. First, Mr. Mallary, we have had limited experience with the rate commission. As you know, we have only had one case that has been processed. I don't feel that our system is all we would like it to be as far as our accounting goes. The Postal Rate Commission has asked us to improve it, and I hope soon we will have more accurate accounting.

There is a dispute among professionals as to how much should be attributable costs and how much could not be.

When it comes to the subsidy, I don't see how the Postal Rate Commission or the Board of Governors has anything to do with it.

Mr. MALLARY. Basically, in setting rates, do you not decide which classes of mail will bear the institutional costs? In other words,

therefore, which classes of mail will be subsidizing the other classes which bear less than their share of institutional costs?

Mr. BAILAR. May I make a comment here which I think deals with both your question and some of the comments that Congressman Ford made. The Postal Reorganization Act now stipulates a number of criteria for setting of postal rates, only one of which is coverage of attributable costs. The others include such elements as the value of the service, the alternatives available to mailers, and things that these comments have addressed in a general way in the last few minutes.

It is within that framework that the Postal Service management makes proposals to the Postal Rate Commission. It is within that framework that the Rate Commission holds hearings and listens to all the parties as to what they think the effect of these criteria should be on rates, and also it is within that framework that the Board of Governors makes a final determination.

As to Mr. Ford's comments, we have what we consider a rather definitive law now for the establishment of rates which makes it obligatory for us to follow it, and it has been challenged in some cases in court and I think without exception our decisions have been upheld.

But the recent legislation on magazine rates was in effect an amendment to that provision of the law, and I think if this committee and the Congress as a whole felt the changes in that provision of title 39 were appropriate that they would pass them into law and then our decisions would be changed accordingly.

Mr. MALLARY. Do you think it is reasonable to assume that in the near future we will see more than 50 percent total of the postal costs made attributable? I understand one study of the Postal Rate Commission recommended a very substantially higher percentage of the total costs could be attributed.

Mr. BAILAR. I don't see any radical change in attributable costs.

Mr. MALLARY. I understand that all building costs, for example, are institutional costs, and therefore, the cost of the bulk mail network would be institutional costs that would not be attributed, is that correct?

Mr. BAILAR. No. The operating costs of the bulk mail network—

Mr. MALLARY. I am speaking about the construction, the capital costs. They are going to be considered institutional costs.

Yet they will be spread over first class mail which will not use the bulk mail network at all. Is that correct?

Mr. BAILAR. Well, to the degree they are institutional, there will be no attributable costs. I had an exchange with Congressman Gross on this subject about 2 weeks ago, and I would rather defer to that, rather than comment off the cuff here at the risk of selecting the wrong words.

But the attributable costs are attributed entirely to the classes of mail handled and the institutional costs will then be distributed among all classes of mail. I had one point I wanted to add to my answer to your question about whether the magnitude of attributable costs would change.

There are parties before the Postal Rate Commission who would like to see the attributable costs increased very substantially. There are also parties who like them the way they are, or would prefer to see them reduced. It is a matter of sharp dispute and it is one that the Postal Rate Commission has extensive debate on with each hearing and I think regardless of what the level might be in the future, there will always be debate on it. If we were to raise them substantially there would still be a lot of debate.

Mr. MALLARY. I am sure that is correct, but is it not true that the lower the attributable costs are kept, or the lower the percentage of total costs are attributable, the greater flexibility there is for the Board of Governors in determining rates to meet competition and in other ways subsidize certain classes at the expense of others?

Mr. BAILAR. Yes, that is true, but I think it is also true that there is greater flexibility to honor all of the criteria which the Congress established in the law. It is one of the things on which we have been both importuned and belabored frequently—that we should bear in mind the public service involved and the communications and the service to organizations that provided educational material, disseminated educational material, and so on.

That flexibility is important to the Postal Service, the Rate Commission and the Board of Governors if we are to recognize and honor those other criteria which the Congress has established.

Mr. MALLARY. Thank you. My time has expired.

Mr. HANLEY. Mr. Derwinski?

Mr. DERWINSKI. I will yield to Mr. Gross.

Mr. GROSS. Mr. Klassen, in an interview on November 13, 1972, in U.S. News and World Report, you were asked a question as to how you felt about legislation proposed in Congress to spread over 10 years postal rate increases on magazines. You answered in effect that no profitmaking publication should be subsidized. However, on May 16, 1974, in a letter, in a letter to Chairman Dulski on S. 411, the postal rate subsidy bill, you said the Postal Service had no objection.

How do you explain this change in attitude on your part on this issue?

Mr. KLASSEN. Mr. Gross, in principle, I still feel that way. On the other hand, I will say to you, in dealing with the magazine industry in particular, recognizing their problems is what caused us to take a different stand. In principle, I still think any profitmaking organization that is going to be in business should not be subsidized to that degree.

I see nothing wrong with a man being able to change his mind when the facts are shown to him, and he understands them to be different. Now this does not mean that all of them should not be paying their way.

It means we have deferred the obligation they have to pay their way. That is what it means. That is what S. 411 means.

Mr. DERWINSKI. Would you yield for a comment?

Mr. GROSS. Yes.

Mr. DERWINSKI. I would like to comment on the question you raise, since Mr. Klassen tends to be a very mild mannered, soft spoken gentleman, and I would like to say on his behalf that his adjustment to the realities of S. 411 merely shows that a great mind does take cognizance of changing circumstances and can adjust accordingly. I consider that statesmanship on his part.

Mr. Gross. I can recall a Member of the United States Senate who often remarked that he was a man of highest principles, but he always kept his principles flexible.

Mr. Klassen, what role, if any, do you think Congress has in overseeing the operations of the U.S. Postal Service?

Mr. KLASSEN. Well, I will repeat what I said in response to Congressman Ford a moment ago. I think it is evidenced by our attitude. We have asked the House Post Office and Civil Service Committee to meet with us regularly, once a month, so we can review what is taking place, and I am sure you saw a recent letter I addressed to every Member of the Congress inviting them to call me and visit with me to talk about the Postal Service and to talk about the problems they are having.

All this was done for one reason, to try to give better postal service and to recognize and show the recognition we have that Congress has an oversight responsibility.

Mr. Gross. I believe you still continue to oppose the bill that happens to bear my name, which has been lodged in the Senate Post Office and Civil Service Committee for probably a year and a half, or close to it, at least a year.

Why do you continue to oppose that bill, which would give the Congress the authority to authorize appropriations for the postal service?

Mr. KLASSEN. I said earlier that there are not only two sides to every story, but there are three, yours, mine, and the right one.

Mr. Gross. Well, we get right back again to the question of flexible principles, don't we?

Mr. KLASSEN. Flexible principles?

Mr. Gross. Either you mean that Congress ought to have some oversight, and in meaningful terms, or I guess you mean we are not supposed to have oversight, Mr. Klassen.

Mr. KLASSEN. Congressman Gross, there are days when I want to encourage the Congress to take the Post Office back and run it the way they ran it for 187 years, and there are other days when I say to myself that does not make a damn bit of sense, because I think what we have been working under is workable.

I think we ought to try to make it work rather than merely criticize how it works. We are openminded on anything anybody has to offer to make it work. When you say why are we opposing it, I don't even know which bill you are talking about for the moment, but let me say this in general.

Your definition of running the Postal Service might be different from mine.

Mr. Gross. I have an idea that it is in several respects.

[Laughter.]

Mr. KLASSEN. As long as we are given the opportunity to express our views we will always express them. We may not necessarily get agreement, but we will express them.

Mr. GROSS. Mr. Klassen, I compliment you on your interest in meeting with Members of Congress, but I happen to think that this is the proper forum; that right here in this committee room is the proper forum to have a discussion of the interplay as between Congress and the operation of the U.S. Postal Service.

In your opinion will the increased appropriation provided in this bill H.R. 15511 for public service costs have any effect upon postal rates, and would you anticipate that this additional appropriation will hold down postal rates?

Mr. KLASSEN. Mr. Gross, I would like to ask Ralph Nicholson to comment.

Mr. NICHOLSON. Mr. Cox in his statement will touch on this, Mr. Gross, but yes, our present understanding of the intent behind the enlarged public service appropriation is to prevent the increase in rates that would otherwise take place.

Mr. GROSS. But at the expense of the taxpayers?

Mr. NICHOLSON. That is correct.

Mr. GROSS. Taking the money out the back door of the Treasury.

Mr. NICHOLSON. As Mr. Klassen indicated, the total cost must be paid for. It is a transfer from the person who uses the mail and creates the cost to the taxpayer who may or may not benefit from those payments in proportion to the amount paid.

Mr. GROSS. It is a sleight of hand performance. The Post Office Department gets it one way or the other and the public pays for the increased costs.

Mr. NICHOLSON. Yes, sir, I believe that is correct.

Mr. GROSS. I believe my time has expired.

Mr. HANLEY. Thank you, Mr. Gross.

Mr. DERWINSKI?

Mr. DERWINSKI. Thank you, Mr. Chairman. Mr. Klassen, in your statement at the bottom of the page 1, you say that you have also made some important progress, especially in getting some of the capital improvement programs underway and in giving your local managers budget responsibility and the management authority they needed.

As you use that phrase the local managers, would you define it for me in more detail?

Mr. KLASSEN. Postal managers—we are talking about postmasters, and section center managers, and district managers and regional people. In other words, we are talking about our field management people really.

Mr. DERWINSKI. Down to the local postmaster?

Mr. KLASSEN. That is right.

Mr. DERWINSKI. I have had the impression from speaking to a number of local postmasters that they really don't feel that as yet they have been delegated enough responsibility. Maybe it is still a holdover from the days when they were frightened to death by su-

periors in regional offices, and they still seem to be looking over their shoulders at some higher authority.

To what extent have you been able to develop some feeling of their taking the bull by the horns and making management decisions that either expedite the mail, improves service, or whatever the challenge could be?

Mr. KLASSEN. Congressman Derwinski, I am sure you are aware of the extent to which we have tried to meet on a formal and informal basis with all our local management people. Last year I personally met with some 15,000 of our management people in the field, and it was expressly our purpose to help them to try to better understand, give them the responsibility and also hold them accountable for their performance.

I can tell you quickly that there were many who responded well, and there are some who will hide behind anything, who can't make a decision, and have never made one in their life and are not about to start.

There have been several reasons for it. Most of them were never taught to understand costs, and you know, only a couple of years ago, nobody knew what the costs of post offices really were. I am sure we will find managers of any operation who would say "go away and let me alone and let me have what money I need."

I don't think you could ever give up the right of having some control and having some supervision, without having 31,000 different kinds of postal services throughout the country.

Among the postmasters themselves, among the district managers themselves, we have substantial disagreement from time to time with what should and should not be done. I think this is healthy.

I recently visited a large group of management people where they had some kind of a button system, and it was designed to express an opinion without showing their hands as to what position they might take. That to me is very poor judgment and management and leadership.

But to try to take 70,000 managers in 2 or 3 years' time and get them to think in terms of being accountable and responsible for the dollars they spend is not that easy, because they were never accountable before.

Many of them said to us, "Why do you worry about this? Why don't you go to Congress and get more money?"

Mr. DERWINSKI. Speaking of costs, this is something that has intrigued me a bit. Part of your budget now includes the cost of the Postal Rate Commission. As I understand the procedure, the Postal Rate Commission merely provides you with a budget request and you as a matter of fact concur with it.

Is that the procedure that has been followed?

Mr. KLASSEN. I will let Mr. Cox respond to it.

Mr. COX. Congressman Derwinski, the Postal Reorganization Act, as you may remember, does say that the Commission shall periodically prepare and submit to the Postal Service its budget and that the budget shall be considered approved as submitted if the Governors of the Postal Service fail to act in accordance with the following

clause: "The budget will be considered approved as adjusted if the Governors holding office by unanimous written decision adjust the total amount of money requested in the budget."

As you have indicated, the practice has been that the Governors "failed to act" in each year that the Commission has submitted a budget thus far.

Mr. DERWINSKI. So in fact, the procedure has been smooth?

Mr. Cox. I suppose you might conclude that the underlying thought here is that if something really outrageous happens, there is a kind of an emergency brake at hand, and failing that, the Commission is not going to be impeded in getting the money that it feels it needs to do its job.

Mr. DERWINSKI. Thank you, Mr. Chairman.

Mr. HANLEY. Thank you, Mr. Derwinski, and my apology for deferring Mr. Cox' testimony. At this point we will recognize Mr. Cox.

Mr. FORD. Mr. Chairman?

Mr. HANLEY. Mr. Ford?

Mr. FORD. I would like to ask unanimous consent that Mr. Cox' prepared statement, which we have all had available to us, be inserted in the record at this point, so that we can get to questions as soon as possible.

Mr. HANLEY. Without objection so ordered.

[The complete prepared statement of Mr. Cox follows:]

STATEMENT OF LOUIS COX, GENERAL COUNSEL, U.S. POSTAL SERVICE

Mr. Chairman, I propose to go through H.R. 15511 section by section, very briefly, giving you the Postal Service's comments on each proposal. I will conclude by describing briefly several examples of the kinds of changes that we feel are necessary to perfect the Postal Reorganization Act at this time.

Section 1 would amend 39 U.S.C. §2401(b) to substitute for the present transitional public service subsidy authorized by that section a larger, permanent subsidy up to 20 percent of the total operating expenses of the prior year, subject to annual authorizations. As Mr. Klassen has already explained, we feel that enactment of this proposal would be a step in the wrong direction.

I would emphasize the point that making the public service appropriation indefinite and subject to wide annual variation would present major problems for postal planning and ratemaking. Rates are set at levels necessary to generate enough postal revenues to cover estimated postal costs, less whatever amounts are reasonably certain to be appropriated. Under the present statute, the public service subsidy is authorized at a specific figure which, in practice, Congress has treated as non-discretionary and has appropriated without fail. Under the proposed amendment, it would be more difficult to justify the assumption, for ratemaking purposes, that any appropriations at all for public service costs would be forthcoming. Even if we could, major annual variations in that appropriation would introduce tremendous uncertainty and instability into the rate system. Both the Postal Service and major mailers require, for internal planning purposes, a reasonable degree of predictability as to what the various postal rates will be for some time ahead.

I would also question the qualification stated in proposed section 2401(b) (2) — which would require rates and fees for zone-rated parcel post and for catalogues 16 ounces and over to be set without regard to the proposed subsidies. This restriction would apply not just to any additional public service appropriations permitted by this bill, but also to the amounts presently authorized, which are not now so limited. This provision would favor certain competitors of the Postal Service who carry these types of materials. But these competitors do not serve all the nation, as we are obliged to do. They tend to concentrate where the cream is richest, while we must make parcel service available in areas which are not economically attractive. Accordingly, whatever justification there is for

payment of institutional "public service" costs by the taxpayers applies to the whole system, not to particular classes of mail to the exclusion of others.

Section 2 proposes an annual budget for the Postal Rate Commission independent of the Postal Service budget and paid by annual appropriations instead of postal revenues. Section 5 proposes to subject the appointment of all five Commissioners to confirmation by the Senate. While we would tend to defer to the Commission and the Congress on the advisability of these changes, we would emphasize our belief that every effort should be made to insulate the Commission and its decisions from the possibility of any improper influence.

Section 3 would repeal the present authority of the Board of Governors to approve, allow under protest, reject, or modify recommended decisions of the Postal Rate Commission, and would instead make those decisions final. First, I should point out that the present law by no means makes Commission decisions purely advisory; far from it. Under section 3625 the Governors may put into effect their own modifications of the Commission's recommendation only within severely limiting conditions—including a unanimous written determination that the modification is in accord with the record and with the policies of title 39 and that the rates recommended would not provide sufficient total revenues together with appropriations to cover estimated total costs.

While we have great confidence in the Postal Rate Commission and hope that the limited authority to reject, protest, or modify will never have to be used, we believe that this authority provides a useful safeguard that should be retained. That the Governors should be able to return a decision to the Commission for refinement or correction of error seems eminently practical and sensible.

The Postal Service also opposes section 4, which would extend by an additional 90 days the waiting period after a rate submission before the Postal Service could put into effect temporary rates. It would also limit temporary rate increases to no more than 10 percent over the old rates.

These proposals ignore the fact that postal bills have to be paid, regardless of the eventual decision on the precise apportionment among the various classes of mail in the permanent rate schedule. It is unreasonable, in today's inflationary world, to expect increases to be limited in every case to 10 percent and still to last beyond the time it takes to complete a rate proceeding.

While, to some extent, we could probably adjust to the proposed extension of the initial waiting period for introducing temporary rates by planning further ahead, the necessary uncertainties of labor negotiations place a limit on that flexibility. Since experience indicates that a final decision cannot be expected within 180 days any more than 90, the extension appears unjustified.

Section 6 of the bill proposes to put the Postal Service generally under the administrative procedure provisions of chapters 5 and 7 of title 5. At present—with the exception of the Freedom of Information Act, which applies generally—the Postal Reorganization Act selectively applies certain of those provisions to particular postal activities. For example, the rulemaking proceedings of the Postal Rate Commission are covered by the Administrative Procedure Act, as are the mailability proceedings of the Postal Service. On the other hand, because of the nature of the functions performed by the Postal Service, most postal activities probably would not be covered by the APA, by its own terms, even if it were made specifically applicable to the Postal Service. However, the extent to which its provisions, and particularly the rulemaking requirements, would apply is sufficiently imprecise that a great deal of uncertainty and litigation would be caused if a blanket application of the APA to the Postal Service were enacted. The Postal Service is primarily a service, not a regulatory agency, so the APA simply is not designed for application to most of our activities. The Reorganization Act dealt with the problem by applying the APA only to those postal matters where it genuinely seemed to fit. We believe that approach of selective application is sound and should be retained. If additional postal matters are appropriate for APA treatment, we would favor a specific requirement covering those particular matters.

In that regard, we see no problem with following the rulemaking procedures of the APA in promulgating regulations under the Private Express Statutes. However, we would object to going beyond that to say, inflexibly as the APA does not, that an evidentiary hearing would be required in every case. Section 7 of the bill seems to have something like that in mind, although we are not altogether clear what is intended by the language requiring a hearing before issuing regulations "governing administration" of the Statutes "by reason of

the enactment of this section", which generally proposes to define "letter" under the Statutes.

Turning to the substantive portion of section 7, we believe that if a statutory definition of "letter" is to be attempted, the language proposed by that section requires considerable refinement. We commend to you the equivalent definitions in the Postal Service's revised proposed rulemaking published in the Federal Register on January 31, 1974. That language is the product of considerable thought and careful work, enlightened by valuable public comment and this Subcommittee's recent hearings on the subject.

We would particularly question the bill's open-ended drafting of the exception for letters enclosed with cargo. That exception has always been considered limited to matter related exclusively to the shipment process or to the goods shipped. We are aware of no justification for extending that exception to permit private carriage of advertising material.

Section 8 proposes a number of perfecting and technical amendments to titles 5 and 39. We have no objection to subsection (a) which would prohibit postal employees from transferring to other executive branch positions until completion of at least one year of continuous postal employment.

We favor subsection (b), which would permit the Postal Service to exercise discretion over the use of the services of the Department of Justice, by striking the present requirement for the consent of the Attorney General before the Postal Service can represent itself in court. Despite the clear intention underlying the present language, the Attorney General has uniformly denied our requests that the Postal Service be allowed to represent itself in specific cases. Particularly in the specialized areas of postal rate and classification law and labor law, we are handicapped by having to turn to Justice Department attorneys who are not familiar with our cases and who frequently have insufficient time in which to become familiar with them before they must appear in court on our behalf. In each of these areas, our own lawyers represent us at administrative levels—before the Postal Rate Commission in rate and classification proceedings and before arbitrators or the NLRB in labor relations matters. This subsection would let us choose to use these same lawyers when a case moves from the administrative level to the courts.

The remainder of section 8 proposes a number of needed technical amendments to titles 5 and 39. We do have one or two additions or perfecting changes that we will suggest to the committee staff.

Moving now to several proposals not included in the bill, let me illustrate the point Mr. Klassen has made that a number of additional practical problems that the Postal Service has encountered so far do seem to require further legislative action at this time.

For example, we have been limited unnecessarily by the artificial differences in size and weight limitations for parcel post, which vary under 39 U.S.C. §3682 according to the size and character of the accepting or receiving office. These constraints are logically indefensible and serve only to confuse and irritate the mailing public.

We have recommended instead that uniform maximum size and weight limits be set for all postal facilities at 108 inches in girth and length combined and 70 pounds, respectively. These changes would make the Postal Service more evenly competitive with the United Parcel Service, which has a comparable size limitation. No structural or mechanical modifications to first-class post offices would be required since these offices already receive the larger parcels during transshipment.

Another problem deserving attention is the postponement of Postal Service authority under 39 U.S.C. §3641(a) to place into effect temporary changes in the mail classification schedule until after the initial schedule is established. One of the strongest recommendations of the Kappel Commission was that the post office take immediate steps to improve the quality and kinds of service offered and to turn its attention to the unmet needs of the public for additional postal services. In providing for a classification proceeding under 39 U.S.C. §§3623 and 3624, Congress expected that the initial classification schedule would be forthcoming promptly. That expectation has proved overly optimistic. The request submitted by the Postal Service to the Postal Rate Commission 18 months ago shows little promise of receiving final action by the Commission in the near future. By putting temporary changes into effect now, we believe that the Postal Service would be able to improve service to our customers and to move the mail more expeditiously and economically.

To accelerate the consideration of classification changes in the future, we recommend amending 39 U.S.C. §3624(a) to provide for informal "Notice and Comment" rulemaking under section 553 of title 5 rather than formal adjudication under sections 556 and 557 of that title for classification matters. Eliminating the protracted evidentiary submissions, cross examination, briefs, reply briefs, initial decisions, rebuttal briefs, etc., would avoid much of the cost and delay that has marked the present classification proceeding. In our judgment, informal rulemaking would still ensure fair treatment for all affected parties, particularly since the classification schedule has little impact on mail users except in combination with the rate schedule, which would continue to be developed through a full evidentiary hearing on the record.

During last September's hearings we recommended that Postal Service authority to contract for transportation of mail by air under 39 U.S.C. §5402(a) be brought to life by deleting the arbitrary restrictions on minimum poundage per flight and maximum percentage of letter mail. As restricted, the provision is practically useless. The elimination of those restrictions would give the Postal Service additional flexibility to assure that our mail delivery standards are met during a period when scheduled flights, for a number of reasons, have not proved entirely capable of meeting the needs of the increased amounts of first class mail we have committed to movement by air. Contracts negotiated under the section would still be reviewable by the Civil Aeronautics Board for economic sufficiency.

We believe that the requirement of 39 U.S.C. §3863 for uniform rates for special-rate fourth class mail should be restricted to the case of the library rate for materials specified in former section 4554(b)(2) and (c) of title 39. Publishers have responded to the present uniform rate for books and other matter specified in section 4554(a) by using the services of private carriers for short-haul shipments and using the Postal Service for long-haul shipments. The loss by the Postal Service of the lower-cost short-haul traffic necessarily contributes to an increase in the uniform rate. The ultimate effect is that postal customers near the large publishing centers get the benefit of the lower zone rates offered by commercial carriers, while those in the more remote areas—who were intended to be the beneficiaries of the uniform rate requirement—pay the higher Postal Service uniform rates. We believe that these materials should be subject to reasonable zone rates for all recipients of this class of mail.

Thank you, Mr. Chairman. We would like to respond to whatever questions you may have.

Mr. HANLEY. It is apparent we are going to have to meet this afternoon, and we will ask unanimous consent that we, after the first quorum call this morning, or this afternoon, we reconvene at 2 o'clock.

Mr. Cox, you may proceed.

Mr. Cox. If I understand correctly, Mr. Chairman, you do not want the statement read and I stand ready along with the rest of us to try to answer any questions you may have.

Mr. HANLEY. You may just highlight it, for the record.

Mr. Cox. In respect to section 1 of your bill, sir, having to do with public service appropriations, I think the only point I want to add to what has already been said here is that this could cause very major complications as a practical matter in the rate making process.

I don't know that there is any need to elaborate on that, but I ask you to recognize the uncertainties of having two billion, two billion four, or whatever it may be, in limbo, since the Postal Service and the Rate Commission won't know from year to year whether that amount of money will be forthcoming by way of appropriations or not.

That uncertainty is going to cast a considerable pall over the rate-making process. I don't think there is any need to expand beyond just noting that point at this stage in the game.

I also would like to draw your attention to the second point we make, which is that if there is to be any additional subsidy along the

line suggested by this additional authorization for public service appropriations, we think it should be spread across the board, and that certain categories of mail should not be immunized from its effects.

Our obligation to deliver mail runs pretty much throughout the country. Our obligation is one which common carriers and the like do not face in the same way that we do. They are very real, and because of that, largely, we think that if you are going to expand the public service subsidy, it should be consistent with today's public service subsidy—the \$920 million subsidy that is available across the board.

The next point that I would like to make is in respect to the Rate Commission and its budget, which we talked about with Congressman Derwinski a moment ago. We, to put it in simplest terms, would defer to the Congress, and for that matter to the views of the Commission, on the advisability of this.

I think we really caught the main point of our thought on this in the colloquy with Congressman Derwinski a few moments ago, in suggesting that some kind of emergency brake should be there. We think the Governors can provide the emergency brake.

In respect to the provisions of this bill that would amend today's law so as to take the Governors of the Postal Service completely out of the rate setting and the classification setting process, I would like to urge with some emphasis that nothing has happened which would justify such a change in the existing law.

As a practical matter, the Governors of the Postal Service play a very limited role in the ratemaking process. They don't have very much practical choice by the time a decision comes from the Rate Commission to them.

But again there is a kind of emergency-brake factor there that I think would be wrongly discarded if it were discarded at all. The Governors do have a duty, an obligation, in respect to postal service which the Rate Commission does not have, and if the Rate Commission, as I trust would never happen, were to recommend a decision that in the judgment of the Governors made it much more difficult to provide the kind of service that in their perception the country needed, I think it makes good common sense to permit them to send the thing back to the Commission and say "Gentlemen, will you please try again? This recommended decision troubles us in this, that, and the other respect."

I hope you will not at this time, after we have had only one rate-making experience, change this law so basically in that respect.

With respect to your proposed changes on temporary rates, to string out another 90 days on top of the 90 days now in the law as the period which must run before temporary rates are put into effect and to impose a 10 percent limit on rate increases, we would have some trouble in an inflationary period living with the first of these, but we would have a great deal of trouble living with the second.

If you look at what is happening to postal rates, or what has happened in the last 2 or 3 years, and imagine what would have happened if that 10 percent limit had been in effect, you can, without using too much imagination, see this system simply running out of money and creaking to a halt. That point seems to me also to be so obvious that it needs little expansion.

With respect to section 6 of the bill regarding the Administrative Procedure Act, which we talked about in the private express hearings last fall, the Administrative Procedure Act in our best judgment simply does not fit a public service such as the Postal Service is—an operating agency in the business of providing service, not a regulatory commission or a rulemaking body of the kind that the APA was primarily designed to apply to.

I do want to make clear that if the law were amended to make the Administrative Procedure Act generally applicable to postal service functions, most postal activities probably would not be covered. But if you look at the terms of the Administrative Procedure Act, and if you try to apply those terms to the multiplicity of things that the Postal Service gets into, I think you can see that there may be all kinds of litigation and difficulty that would arise out of an amendment of this kind.

We have no objection at all to the application of the Administrative Procedure Act where it fits. We, for example, would have no objection at all to your telling us that we ought to follow the Administrative Procedure Act with respect to the private express statutes, as we are now doing, as you know, Mr. Chairman. But we do ask that you not apply it willy nilly across the board and without giving consideration to whether it fits or not. That is the main point we want to make on that.

Turning to the private express statutes as they would be amended by this bill, I want to state quite candidly I am not entirely sure what some of the proposed definitions that you have in mind are intended to mean.

The definition of the word "letter" that appears in section 7(a) of this bill seems to me to be written in a way which perhaps is intended to exclude addressed circular mail, typically third-class advertising mail, from the protection of the private express statutes.

I don't know that that is intended. May I respectfully suggest, sir, that you consider the proposed regulations which we have most recently published in the Federal Register in late January, where we have spelled out as carefully as we could our idea of a definition of letter that does not really basically change the existing ground rules, and I commend that to your attention and suggest we work on that, and we would be very glad to cooperate with you on this, or with your staff, with that definition in mind, rather than this one, which to me, to tell you the truth, is confusing.

Moving from the private express statutes, let me just touch on the technical amendments. We do have some fairly minor suggestions to be made with respect to those, and with the committee's permission, we would like to deal with your staff on that.

I should mention before ending this summary of the prepared statement, that I don't want to overlook the statement Mr. Klassen made, that we want to consider things not in this bill which we hope you would favorably consider.

The size and weight limitations in the present law to us make very little sense. At present, the rules on the size and weight limits that apply to parcels that a citizen or customer can bring into a first-class post office are different from those that apply to the same person tak-

ing the same parcel into a third- or fourth-class post office. We don't think that makes a lot of sense, and we would recommend that you give thought to changing that.

With respect to the proceedings of the Rate Commission in regard to temporary classification changes, you will recall that the law presently reads in a way which prohibits the Postal Service from putting into effect any temporary classification changes until after the classification schedule is first permanently established under the provisions that are spelled out in the law.

The intention, I presume, of the House Post Office Committee, of the Senate committee, and of the Congress, as a whole at this time the Postal Reorganization Act was enacted was that classification changes would be forthcoming soon enough so that there would not be a dead hand imposed on our ability to adapt postal services to fit public needs.

The first classification proceeding has taken longer than we anticipated it would and we would commend to the committee's attention the possibility of changing this law so as to permit the Postal Service to go forward with temporary classification changes now, even though the first classification schedule has not been established under the act.

We have one other proposal with respect to classification changes which we think might largely simplify the very cumbersome and expensive and long-drawn-out process of the Postal Rate Commission as it now exists with respect to classification proceedings. We suggest that you might well want to change the law so as to permit notice and comment rulemaking for classification changes rather than the formal, adjudicatory process now required by the law.

We suggest that just for classification and not at this time for ratemaking, having in mind that classification changes by themselves don't have a cutting edge. They have to have a rate change to accompany them if they are to take hold and have effect, and hence we think that this change would continue to protect the interests of the mail users. It would protect them by continuing to provide the full set of safeguards that go with adjudicatory procedures in respect to setting rates while still simplifying and easing the costs of Rate Commission proceedings for classification matters.

We do have in my prepared statement some other proposed changes, Mr. Chairman, but I have an idea I have taken enough of your time, and I would like to leave it there. As I said a few minutes ago, we would be happy to try to answer any questions the committee may have.

Mr. HANLEY. Well, thank you very much, Mr. Cox.

We appreciate your position on these various proposed changes, and of course, again, that is the purpose of this hearing, to hear you people out. That is, this committee is certainly not infallible, and the legislation before us is the result of our observation for need, and during the course of these hearings as I mentioned initially, much of it could be changed.

Now just to reflect again on the matter of subsidy, my concern, my fundamental concern again relates to the provision of all classes of mail at reasonable rates, to assure that to be fact, and beyond that, my fundamental concern relates to the provision of the private express

statute, without which I feel the entire entity could well be down the tube.

So during the course of these weeks ahead, I am sure we will have a great deal of colloquy on this and all the provisions contained in the bill. But very briefly, that is the intent of that subsidy provision, and we talk about 20 percent, and we say up to 20 percent dependent upon the situation of that particular year.

With regard to your concern registered on page 3 of your testimony, where it would repeal present authority of the Board of Governors to approve, et cetera, the point we have in mind is that a regulated industry should have direct control over the group which regulates it.

Mr. Cox. I understand that, Mr. Chairman, of course and I would agree with respect to regulated industries in the conventional sense, but I would submit that the Postal Service is not a regulated industry. We are not like a public utility. We do not have a profit-making drive or compulsion or ambition. We do not have a duty or obligation to owners or investors to provide a return on investment. We don't have any kind of profit motive conflicting with our intention to try to provide as good postal service as we can, at as acceptable rates as we can.

Furthermore, I think perhaps it is somewhat misleading to talk in terms of the Governors having control over the rate commission. I would submit that it is perhaps a little more accurate to think of this as involving a sort of a balanced mixture of some influence by the Governors and a great deal of influence by the Commission, on which there has to be some effective working together if proper postal rates are to result.

But as a practical matter, when you trace what the choices of the Governors are, by the time a recommended decision comes over from the Rate Commission, they don't have very much choice but to go along.

Mr. HANLEY. What you say is true, but the possibility exists, doesn't it?

Mr. Cox. There is certainly a possibility that the Governors may reject the recommended decision of the Rate Commission. Let me illustrate it by a fanciful case. Suppose that the Rate Commission says: "Let's load almost all those institutional costs onto some particular class of mail." Suppose it seems a valid distortion of what makes sense. As I said, it is a fanciful case, but given such a case, the Governors could certainly go back to the Rate Commission and say: "Fellows, try again. This does not make any sense to us. We are not going to approve it and put it into effect. We reject it and we send it back to you for further hearings."

Further, the Governors, under extremely limited circumstances, have the capability of modifying a Rate Commission recommended decision. That is, again, a theoretical possibility. But I am reminded of the metaphor we talked about a little while ago: having an emergency brake at hand in case something goes wrong. It is in that light that I tend to view these provisions of the statute, and even though I don't expect anything to go wrong, I don't want to throw that emergency brake away.

Mr. HANLEY. Did you have a question?

Mr. FORD. Yes. You mentioned at the beginning of the colloquy with the chairman the problem of the long delay. I notice your statement on page 9 refers to a pending request that has been over there for 18 months, and you say it shows little promise of receiving final action soon.

I have been informed that the Postal Service asked the Commission for a 30 month delay in considering the matter, that they cut you back to 6 months, and that they are prepared to come in here and state that the only reason they are not getting it out is that you won't provide the additional information they have requested and you have asked to delay it on more than one occasion.

Mr. Cox. Mr. Ford, what we did last month with respect to the classification case is as follows: We filed a series of papers which, taken together, were intended to make a point, and they clearly did make that point.

In effect, if I may paraphrase freely, we said to the Administrative Law Judge: "We think the time has come to make a decision on this classification case. It has been pending for almost 18 months. It is quite apparent to those of us who have been in the proceedings thus far that there is a kind of watershed—a conceptual watershed—here. There are some people in the proceeding who say it is not possible to go forward with piecemeal, comparatively limited improvements in the existing classification schedule, which basically is what we have suggested, until the whole concept of classification has been rethought and reworked through from the ground up. There are other people who disagree with that and say that these piecemeal changes are possible and proper."

We said "Let's make a decision between one of those and the other. We are willing to go forward now as we have been since January, 1973, or we are willing to undertake a study or a series of studies looking to thorough-going classification reform generally along the line that the Rate Commission had suggested by coming up with a contract with the Arthur D. Little Company and disseminating the results of that contract study."

We also said "There is a third choice. There has been only one fairly fully developed case looking toward thorough-going wholesale classification reform submitted thus far, and that has been submitted by the officer of the Commission who represents the public generally. We are willing to put on the stand the principal witness who would be testifying as to that thorough-going proposal. Put him on the stand, let's cross-examine him." Not to make too fine a point of it, we suggested that we though we could demolish his case and thus throw the decision back to a choice between the first two possibilities.

Basically what we were saying was: "Please, let's choose one way or the other now so we can go on with this down one road or the other."

Mr. FORD. I have a memorandum detailing the activities that have been taking place before the Administrative Law Judge. Back in the beginning of May, a motion was filed by the assistant general counsel for the litigation division of the Rate Commission asking to expedite the mail classification proceeding and they asked him to set some cutoff dates.

Mr. Cox. Yes.

Mr. Ford. On May 20th, you filed a reply to the motion, and talked about the pending rate proceedings, and also the A.D. Little study you mentioned.

Mr. Cox. And I think you will find the three choices I mentioned in the paper.

Mr. Ford. And you made a motion to the Administrative Judge that all the hearings be suspended and under the proposed timetable that you included in that motion, the hearings would not resume for 31 months after the decision to suspend. So you put it off for almost 3 years. What bothers me about that is not whether this makes sense for you to proceed that way in your problems with the Commission, but for you to come in here today and offer as a consideration for knocking out a part of the chairman's bill the observation that a request submitted by the Postal Service to the Postal Commission 18 months ago shows little progress and to indicate to us that there is already so much delay that any additional time provided by this bill would not be justified.

Thirty one months is a lifetime around this town, and then you come before us on the other hand and say that this legislation is defective because you are going to put another 90 days on it.

Mr. Cox. I understand your point, sir, but I hope I have made it clear that we are anxious to move forward on the comparatively limited classification case changes which we submitted back in January of 1973, and I gather as a matter of fact, in view of what the Rate Commission has done with the Administrative Law Judge's order, that we may do just that.

Mr. Ford. Why do you need 31 months?

Mr. Cox. That is only in case our repeated suggestion that we move forward was going to be rejected. We say: "Let's go piecemeal, or if you won't let us do that, let's take a different road all together." But that different one, as we have said right along, takes a whole lot of study. Hence the 31 months.

Mr. HANLEY. If the gentleman will yield, as the signal suggests, we are confronted with a time problem. I know that you, General Klassen, have an appointment with a House Member at 2:30, and I understand with a Member of the Senate at 3:30. We are very anxious to wash off this part of our hearing.

I am advised by counsel that the committee and the room could be available to us Thursday morning. That being the case, as I understand, it is committed for the Postal Rate Commission tomorrow morning. That being the case, could we plan on reconvening Thursday morning at 9:30?

Mr. KLASSEN. How about tomorrow morning?

Mr. HANLEY. The Rate Commission is here tomorrow morning. Otherwise it would be a matter of this afternoon.

Mr. KLASSEN. I have the same commitments for Thursday that I have this afternoon, Members of the Congress.

Mr. Ford. Why don't we invite them to our meeting?

Mr. KLASSEN. I beg your pardon?

Mr. Ford. Why don't we invite them to our meeting?

Mr. HANLEY. I feel certain, giving the Member this much notice, today is Tuesday, and if it is a Thursday appointment, the Member

would accommodate you in recognition of the hearing. If you could return—

Mr. FORD. Would you write a note for him, Mr. Chairman?

[Laughter.]

Mr. HANLEY. I will talk to the person.

Mr. KLASSEN. Could we also make a time commitment? I am also committed to go to Cincinnati at noon time that day.

Mr. HANLEY. Hopefully, we could conclude the hearing prior to noon starting at 9:30.

Mr. KLASSEN. That would be difficult for me in view of my prior commitments.

Mr. HANLEY. That being the case we will have to proceed this afternoon, and have to work it in between.

Mr. KLASSEN. Mr. Bailar and Mr. Cox and Mr. Nicholson can be here all afternoon, and I will be returning. The Congressman I am going to see is right in the building here.

Mr. HANLEY. All right. That being the case, then the committee will reconvene at 2 o'clock. We will provide for your ability to accommodate the two appointments that you have.

Mr. KLASSEN. And I will be back in here. Thank you.

[Whereupon, at 12:20 p.m. the committee recessed to reconvene at 2:00 p.m.]

AFTERNOON SESSION

Mr. HANLEY. We will at this point resume the hearings initiated this morning.

General, may I ask you, earlier this morning you were in the room when Congressman Wright gave us the report on the constituent response with regard to the opinion of his constituency.

He gave us the report of his questionnaire, posing a question with regard to public opinion.

Mr. KLASSEN. Yes.

Mr. HANLEY. On the quality of the U.S. Postal Service and I believe 72 percent of the people were unhappy.

May I ask, does the service itself conduct public opinion polls?

Mr. KLASSEN. We have taken some polls. I don't remember what they were. Can you help me with it?

Mr. BAILAR. I don't think we have taken opinion polls of that sort, Mr. Chairman. We maintain our measurements and service. We also keep close track of the complaints which are filed with our Consumer Advocate, which of course, do not represent all complaints. They do, we think, go up and down as a barometer of how things are going. There has been a very favorable trend over the last year in the sense that those complaints have declined.

Mr. HANLEY. But you don't conduct any polls per se on a periodic basis trying to put your finger on the pulse of what public opinion is as far as your operations are concerned?

Mr. KLASSEN. No.

Mr. HANLEY. You do not do that?

Mr. BAILAR. No, sir.

Mr. HANLEY. With regard to the Rate Commission, and I just sense that, recognizing the restrictions that you function under that appar-

ently the rapport there is not that good and the understanding between the Rate Commission and your needs is not the most desirable.

That being the case, in your judgment, General, would there be any advantage to the public if the Postal Rate Commission were abolished and ratemaking were left to the Postal Service subject to veto by the Congress?

Mr. KLASSEN. Mr. Chairman, first of all, I would like to correct any mistaken impression we may have given about our relationship with the Rate Commissioners.

As you know, two of them are fairly new and there is a fifth one that they are still try to settle on.

We have had several informal conversations with them recently. In fact, we invited them to meet with the Board only a week ago in connection with their budget and we made an effort to try to make sure they gained a better understanding of the Postal Service's overall problems.

In fact, Ben Bailar personally has been out to visit several locations with the chairman of the Rate Commission and has further schedules set so that he may have a better appreciation of the overall postal situation.

As far as answering your question is concerned, if we did not have the Rate Commission and had it handled by Congress—

Mr. HANLEY. No, I said that the Postal Service, itself, would take over ratemaking per se, subject to veto by Congress.

Mr. KLASSEN. Yes. That would be easier for us.

Mr. HANLEY. Would you approve of that?

Mr. KLASSEN. Yes.

Counsel apparently does not.

Mr. Cox. I do agree with you, but I was just going to remark that I presume, Mr. Chairman, you have in mind a provision very much like the Postal Reform legislation of 1970 in the form in which it passed the House of Representatives. We thought that was a good bill in respect to ratemaking.

Mr. HANLEY. How long has the present rate case been pending?

Mr. Cox. We filed a request for a recommended decision in late September of 1973, so that is about 9 months, almost 9 months.

Mr. HANLEY. Late September of 1973?

Mr. Cox. Excuse me. Almost 10 months. It was September 25, to be exact.

Mr. HANLEY. Do you know what the status of it is now?

Mr. Cox. Yes, sir. The Chief Administrative Law Judge of the Commission has been holding hearings which commenced something like 10 days ago—I do not remember the exact date—after quite a protracted period of prehearing conferences, discovery, interrogatories and so forth.

I may say, Mr. Chairman, that under the rules of the Commission, a great deal of the evidentiary part of the proceedings takes written form, with the idea that oral cross-examination and the like would be held to a minimum with a view in mind to saving time in the long run and most of that very protracted written portion of the proceedings is now completed. While it is a little speculative to try to estimate and predict exactly how long it will take, we have a sense that

the next part of the rate proceeding, the rate hearing itself, is now moving along at a very good clip, and we are optimistic that it will continue to move pretty rapidly and that we will be getting a recommended decision in the next several months.

Still and all, it is a long, drawn-out process in the overall.

Mr. HANLEY. The position, as I understand it, as the General stated it, that preferably you would like to be rid of the Postal Rate Commission per se, you would prefer that it be an in-house operation subject to veto by the Congress?

Mr. KLASSEN. Yes, sir.

Mr. HANLEY. For the benefit of Mr. Johnson and Mr. Ford, Mr. Klassen has to leave us at about 2:25, and with that thought in mind, I defer to Mr. Johnson.

Mr. JOHNSON. Mr. Klassen, I am rather intrigued by this bill which would destroy the so-called mandate that you people must operate at a profit and come back to a subsidy situation.

First of all, I would like to address this question to counsel: What does the present law say with respect to operating at a profit? Is it a kind of a wish and a prayer, or what is it?

Mr. Cox. Well, sir, it requires that we maintain an equilibrium between what we take in, counting appropriations, and what we spend over a period of time. I do think we should do what we can to try to root out of these the idea of profit. We are not supposed to make a profit, and we do not intend to make a profit.

Now, what we are supposed to do is to cover our costs.

Mr. JOHNSON. Break even.

Mr. Cox. Break even after taking into account appropriations. The statute says this: "Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service," and as you will remember, the provisions dealing with appropriations provide for a gradual phasing down of appropriations over a considerable number of years.

So, in that way, the statute points to an eventual equilibrium. "Breakeven for the most part," I think, would be a fair characterization.

Mr. JOHNSON. I will address this to counsel, Mr. Klassen.

The proposed amendments in H.R. 15511, in what way would that change the present law?

Mr. Cox. Well, in respect to the break-even aspects in the present law, I think there would be two points that would be most important.

In the first place, the authorization for appropriations—and bear in mind, of course, it is simply an authorization, permission, if you will, to appropriate—would be greatly enlarged.

At the present time, there is, as you will remember, Mr. Johnson, an authorization for so-called public service appropriations in the amount of 10 percent of the 1971 appropriation of the Post Office Department, which happens to work out to \$920 million. For each year, that is, through 1979. Instead of that 10 percent, in 1980, it becomes 9 percent; in 1971, 8 percent and so on, through 1984 at which point it would be 5 percent and thereafter the law says in effect that the Postal Service is free to determine that no further so-called public service appropriations are needed.

Now, the bill which Congressman Hanley introduced would provide that, in place of the 10 percent of 1971 and scaling down as I described, there would be authorized to be appropriated amounts up to, as the chairman pointed out this morning, 20 percent of the operating costs for the immediately preceding fiscal year, so that in round numbers—in terms of where we stand at the moment—instead of \$920 million being authorized, there might be \$2.4 billion, authorized to be appropriated.

So that is one big change. Now, the second point is that if this very large amount of money were authorized, but only authorized, we would have a good deal of doubt as to what we should do about rate-making, because we would not know whether the money would be forthcoming or not.

I think that is a very important point to keep in mind.

Mr. JOHNSON. That was going to be my next question.

If we had this built-in provision for an escalating subsidy, what would be the function of the Rate Commission with respect to, say, the 10 cent stamp? Would they freeze it as 10 cents and we on the committee would authorize an increase in the appropriation every year so that the postage rate would remain the same?

Mr. Cox. We would have to work out some technique whereby we would get the amount of the appropriation each year pinned down with as much accuracy as we could. I think we would have to do this as a matter of advance estimate, and go to the Rate Commission with a basis of expectations, but with provision that if the expectations are disappointed and the appropriation should fail, then the rates would be increased.

The bill we are discussing, H.R. 15511, does not, if I recall correctly, change the part of the present law that says that if there is a failure of appropriations which have been authorized, then the rates may be increased so that they will reach the point that they would have been at had the appropriations never been even thought of in the first place.

As you recall, Mr. Johnson, this provision in the present law indicates that, one way or the other, the Postal Service has to get its money. If it does not get it from the Congress in the form of appropriations, it must get it from the ratepayers in the form of increased rates, because the bills must be paid in one way or another.

Mr. JOHNSON. It always sounds very well—we can authorize and dispose here, but the history of the Appropriations Committee is that they take a dim view of what we say is needed and pretty generally do not come through with the money and that is what I am just thinking of.

We would almost have to have a built-in mandate on the Appropriations Committee to come forth with the money.

Thank you very much.

Mr. HANLEY. Thank you.

Mr. Ford?

Mr. FORD. Mr. Johnson, when you get that veto-proof Congress this year, you will not have to worry about appropriations. We will show you how to spend it.

The Postmaster General has to leave. I would like to say that I am really intrigued by the discussion you and I had this morning about what the relative roles of the Commission, the Board of Governors and the Congress contemporaneously are. I find that we have before us a statement of the general counsel of the U.S. Postal Service which is replete with policy statements with respect to whether particular points of this legislation would or would not be good policy.

I am not trying to put you on the spot, but have you reviewed this with Mr. Cox, and are we fairly confident in spending time with him here this afternoon that he is speaking for you and the Board of Governors with respect to these policy statements in his statement?

Mr. KLASSEN. Yes, Mr. Ford. I reported to the chairman earlier that in my absence these men would be representing me and making whatever decisions are appropriate.

Mr. FORD. All right. What I want to make clear is whether you are giving him your proxy, or whether, in fact, you and the Board have reviewed these things. We are talking here about some policy decisions that are made by you as the chief administrative officer and the Board as the operating board of the Postal Service, and whether you are delegating to the General Counsel the authority to decide that from time to time as we go on with the hearing this afternoon.

Mr. KLASSEN. I not only have reviewed his statement but have approved his statement as submitted.

Mr. FORD. So we would be safe in saying that the statement represents the position of the management of the Postal Service on this legislation?

Mr. KLASSEN. That is right, sir.

Mr. FORD. That is fine. That is what I wanted to establish in the record, Mr. Chairman. I want to thank the Postmaster General for coming back and squeezing himself in between appointments for us.

Mr. HANLEY. Thank you, Mr. Ford, and General Klassen, on behalf of the committee. We appreciate your appearance here today. Personally, I do want to commend you for the overture that you have made with Members of the House and the Senate reciting your willingness to meet with them individually and for this reason, you must depart this afternoon. Unfortunately, time did not provide us the opportunity to get into a number of areas that we had hoped to, so we will prevail upon your cooperation again in the course of these hearings so that we can get to the questions that unfortunately we could not cover today.

Mr. KLASSEN. Mr. Chairman, if you are going to continue this session, I will be back.

Mr. HANLEY. You mean today?

Mr. KLASSEN. Yes.

Mr. HANLEY. Fine. That being the case, in recognition of your time—

Mr. KLASSEN. I have an appointment right here in the building and I trust that should not take over half an hour. I will indicate I need to get back to the hearing.

Mr. HANLEY. Very good. That being the case, we will anticipate seeing you a little bit later.

Mr. KLASSEN. I appreciate that, sir.

Mr. HANLEY. Thank you.

Mr. Cox, some question has been raised as to whether the definition of a letter contained in H.R. 15511 would include the electronic transmission of mail. What would your interpretation of the language be? Do you feel that the statute should cover the electronic transmission of mail?

Mr. Cox. Well, sir, I think perhaps we should distinguish between mail, or to use a less specific word, messages when they are in hard-copy form, on paper, or in some other tangible form on their way to or from an electronic transmission, and on the other hand, messages while they are in the course of electronic transmission. Since the Private Express Statutes deal with the movement of letters over post routes and things of that sort, we have traditionally been of the view that, strictly speaking, electronic transmission is not in itself covered by the Private Express Statutes today and we have not thought it appropriate to recommend that it should be covered.

On the other hand, we have consistently taken the view that when the message is reduced to writing, after it comes out of the electronic equipment, if you will, or before it is reduced to electronically transmittable form and goes into the electronic equipment, if it is going over postal routes and the like, it would be under the Private Express Statutes.

Now, my recollection of this bill, H.R. 15511, is that there is nothing in the bill that would appear to modify what I just said by way of describing the present law.

In other words, the answer is that electronic transmissions would not be covered but the input and the output, to the extent it is carried over postal routes or post roads, would be covered.

Mr. HANLEY. Changes in the regulations governing the Private Express Statutes could significantly affect many, many businesses.

Yet there is not any provision in the Postal Reorganization Act where hearings are required on proposed changes in regulations.

In view of the fact that the Postal Service has already agreed to hold hearings on important changes, I am a little bit puzzled as to why you should be opposed to providing for such a procedure by law.

Mr. Cox. Two points, Mr. Chairman.

First, we do agree with you that the procedures laid out in the Administrative Procedure Act, or at least certain pertinent ones of these procedures, should be followed as a matter of good sense and good government in developing rules for implementing the Private Express Statutes. But those pertinent procedures do not ordinarily involve hearings.

They involve what, as you will recall, is known as "notice and comment" rulemaking. The agency will propose regulations, publish them in the Federal Register in proposed form asking for public comment on them, study and react to the comments, and so forth.

They do not involve hearings and section 553 of title 5, which is not mentioned in H.R. 15511, seems to me really to be the section—the part of the Administrative Procedure Act—which is most in point here. That section is the one which relates to "notice and comment" rulemaking. Now, hearings are permitted under that section but as a

matter of course the administrative agencies normally do not hold them.

So, that is one point: We should distinguish between administrative procedures of the kind sanctioned by the Administrative Procedure Act on the one hand and hearings on the other hand.

The second point in response to your question—as you recall, your question was: “Why should we object to the APA?” We don’t object to having the Administrative Procedure Act applicable to things like regulations under the Private Express Statutes. We think that is a sound and sensible thing to do. I do not see why it should be necessary to enact a law that requires it. But we have no objection to a law that requires it.

What we do object to is a kind of general across-the-board application of the Administrative Procedure Act to operations of the Postal Service. The Administrative Procedure Act is designed to be a single codification of rules that would apply to an almost infinite multiplicity of different kinds of government action, and there are all kinds of questions lurking around the perimeters of those rules as to how they apply to a particular situation.

The Postal Service, as we mentioned this morning, is not a regulatory body. It is not a rulemaking body of the kind that many other parts of the government are. It is more of an operating public service and I do not believe that there should even be the possibility of an argument that, if we are going to change some postal delivery route some place, that is administrative action of a kind that has to be subjected to the processes of the Administrative Procedure Act.

If there are cases where the Administrative Procedure Act really fits, we have no problem with the idea of applying it but we do not want an across-the-board application of it, for fear that someone will seek to apply it in cases where it does not fit.

Mr. HANLEY. When does the USPS intend to put its proposed regulations on the private express statute into effect?

Mr. Cox. Sir, I can give you an approximate answer on that.

Mr. HANLEY. My time is up, so I will appreciate your response.

Mr. Cox. I would hope to do it, let me say, sometime this summer. The holdup of a sort on it has been that I am not really sure whether the Senate Post Office Committee, which has mentioned the possibility of holding hearings on this, intends to go ahead with hearings or not, and we are somewhat torn. We do not want to hasten down the line here if they are going to hold hearings.

On the other hand, there are things in the regulations that ought to be helpful to everybody, I hope, and we have a duty to get on with this.

Mr. HANLEY. Did I understand you to say this summer?

Mr. Cox. Yes, sir.

Mr. HANLEY. That means right away. This is July.

Mr. Cox. Yes. If you or anybody else up here sees some reason why we should not, we would want to respect that reason but unless there is that kind of objection, we feel that probably this set of regulations is an improvement for reasons that we went over with you last fall and it probably is a matter of doing our job right, and we ought to get on with it.

Mr. HANLEY. Thank you.

Mr. JOHNSON.

Mr. JOHNSON. I would like to ask Mr. Dorsey some questions.

What is the status now of your new service or mailing centers?

Mr. DORSEY. The bulk mail centers?

Mr. JOHNSON. Yes.

First of all, how many do you contemplate in the United States?

Mr. DORSEY. There will be 21 bulk mail centers and 12 auxiliary service facilities so there are 33 all together. The 12 really are post offices modified to handle bulk mail.

Mr. JOHNSON. Are they all in the process of construction at the present time?

Mr. DORSEY. They are all under construction and our current time table, barring strikes by the construction people—and we have experienced some difficulty with that, with various trade unions on strike—is such that we should hope to have the last one, which is in Seattle, Wash., on line by October of next year.

The one in New York is on line now. It has been on line. We have had some mechanical problems. Chicago is due in April.

Washington, D.C. is due shortly after the first of the year. Then they come on line successively 1 or 2 a month, and in some cases 3 a month, so that the last one would come on line in October of 1975, sir.

Mr. JOHNSON. How will these bulk mail centers appreciably change your method of distributing the mail that was in vogue before you decided to build these centers?

Mr. DORSEY. There are two significant things. One, our studies indicate that these 21 bulk mail facilities and 12 auxiliary service facilities would bring to the system for bulk mail—that is, second, third and fourth class mail—a high degree of consistency in service. In other words, we would not have the various escalations of service between points like here and the west coast where it might vary now from 8 to 18 days. We would hope that it would be a consistent 7 days based upon our analyses.

The second thing that we have great expectation for—and our studies, I think, will bear it out—is that we hope to get most of this mail, particularly parcel post, out of sacks and into containers so as to reduce our parcel damage factor down to a very, very low level.

Our studies have shown, Mr. JOHNSON, that the biggest contributing factor to damage is that mail sack. Those parcels get inside that sack, and they get churned and piled on top of each other. The bulk mail system provides for the movement of mail between bulk mail centers in containers, or in tractor trailers, with brick loading.

We feel those two things will provide a high contribution both to consistency of service and to less damage and we will be able to change an operation that is currently 80 percent manual and 20 percent mechanical to a reverse ratio of 80 percent mechanical and 20 percent manual.

Mr. JOHNSON. Isn't this new center the type of operation that was contemplated when we passed the act in 1970?

Mr. DORSEY. I would think so. This required an immense investment of funds for better facilities and automation.

We certainly have to come to grips with automating what we can at the Postal Service and we have made some steps forward in that.

Certainly the act by providing for the capital investment funds that it does permits us to go forward on a very good basis.

Mr. JOHNSON. I want to ask Mr. Nicholson a question, and I think I have one more minute.

The Postal Service Act that you are now operating under gives you people the power to borrow money, does it not?

Mr. NICHOLSON. Yes, it does.

Mr. JOHNSON. How big is that power?

Mr. NICHOLSON. A total of not to exceed \$10 billion to be outstanding at one time, and there are annual limits. It cannot be increased more than \$1.5 billion for capital purposes and \$.5 billion for operating purposes in any one fiscal year.

Mr. JOHNSON. And the amount of money that you would borrow is guaranteed by the Federal Government, is that right?

Mr. NICHOLSON. The first issue that we made is not backed by the full faith and credit of the United States Government.

However, we have the option of seeking that guarantee if it seems necessary or appropriate in order to make the borrowing at favorable terms.

Mr. JOHNSON. How large has your bond issue been to date in these 4 years?

Mr. NICHOLSON. To date, we have borrowed \$250 million for capital investment. In February of 1972 that was. Last June 27, just about 10 days ago, we borrowed \$500 million for operating purposes.

Mr. JOHNSON. Operating purposes.

Now, this \$250 million that you borrowed, is that what has been used for these bulk mail centers, these 33 mail bulk mail centers?

Mr. NICHOLSON. That is correct. It is a mixture of things. The dollars were not earmarked for any specific project, but those dollars have been necessary along with other dollars to liquidate the commitments made for the construction of the bulk mail facilities.

Mr. JOHNSON. Then there has not been, actually, the tremendously great borrowing on the part of the service that maybe was contemplated in 1970 when the bill was passed?

Mr. NICHOLSON. No, the scale of borrowing has not approached the maximum yet.

Mr. JOHNSON. Do you have future plans for additional borrowing?

Mr. NICHOLSON. Yes, we do. We anticipate we will need to undertake additional capital borrowings during the current fiscal year.

The borrowing is necessary where cash is needed to liquidate bills on construction, equipment, and so forth. The need for cash is a follow-on action after the program itself has been approved and got under way.

The construction program in the modernization program of the Postal Service has moved extremely rapidly. Mr. Johnson, as perhaps you know. It is running at about 10 times the level of commitment that characterized the last years of the Post Office Department.

We did suffer some loss of months of time because the Corps of Engineers was handling the building construction, and real estate operations, and it was removed from our access, and this whole process has had to return to the Postal Service.

Commitments, however, are planned next year at a level of \$1.1 billion, or slightly more than that, and as those projects take physical

form, we will need a substantial flow of cash for the purpose of liquidating those capital commitments.

So, we anticipate a capital borrowing in 1975.

Mr. JOHNSON. Thank you. My time is up.

Mr. HANLEY. Thank you, Mr. Johnson.

Mr. Ford?

Mr. FORD. Thank you. I do not want to get into an exchange with Pete Dorsey, but do you know how many of the 33 centers Mr. Blount is building?

Mr. DORSEY. I think, if memory serves me correct, there are three, are there not?

Mr. COX. I do not know.

Mr. FORD. I heard four.

Mr. DORSEY. I think the one in Detroit—but that is not my bailiwick. They were all bid by the Corps of Engineers. The Corps of Engineers has entire jurisdiction over that project for us and is continuing to handle the project for us.

Mr. FORD. We are glad to see that you decided that the Corps of Engineers was not the right place to be on that.

Mr. COX, on page five of your statement, you state at the top of the page that section 6 of the bill proposes to put the Postal Service generally under the Administrative Procedures provisions of chapters 5 and 7, and you go on to say why this will not work, but point out that the rulemaking provisions of the Postal Rate Commission are covered by the Act and the mailability procedures of the Postal Service are covered by the Act.

The activities that would be added by the legislation before us would be technically covered by the Act. You say that as a matter of practice you are already following the Administrative Procedures Act. That being the case, what significant differences would it make to your present operations if the APA were generally applied?

What specifically would cause the problems?

Mr. COX. Mr. Ford, I am not sure that it would make a difference to our present operation. I believe we say in this statement that—

Mr. FORD. You say the extent of these provisions, particularly the rulemaking, are sufficiently imprecise that—

Mr. COX. The problem, sir, arises from the definition of rulemaking in the Administrative Procedure Act.

Mr. FORD. The practice around here in legislation all over is to simply say "Subject to the Administrative Procedures Act," because everybody knows in this town what you are talking about, the courts have had a chance to decide on the language in that act, and the courts know what a hearing means.

There is a wide body of law about what due process is. Why try to do this on a hybrid, piece-by-piece basis instead of just using the Administrative Procedure Act as all other Federal agencies are doing?

Mr. COX. For one thing, Mr. Ford, as I am sure you are well aware, there is a plethora of legislation about what the Administrative Procedure Act means. It is not all that cut and dried.

Mr. FORD. Why cover that ground all over again?

Mr. COX. The possibility, and I would not want to call it more than a farfetched possibility, that a postal decision on, oh, how to route

the mail as between airline A and airline B, or something of that kind which is basically an operating procedure, will be challenged by someone and held in a court to be the kind of decision that is covered by the Administrative Procedure Act is a possibility that bothers us very much. I would be surprised if this committee or anyone on it intended that that would be the purpose.

Mr. FORD. But the act would not be applicable. All you would be required to do would be to publish your rules and guidelines for deciding between A and B Airlines and put them in the Federal Register and let them soak for 30 days.

If, on the other hand, we had a requirement written into a statute that we need a hearing, then we would know the rules by which that hearing and the subsequent appeals would be taken.

Mr. Cox. I believe that is correct but I think it is also correct that on every point under the existing postal law where the Congress had seen any reason at all for a hearing, that is prescribed.

Mr. FORD. I do not want to use all my time on the Administrative Procedure Act, but you make a distinction in here that the Postal Service is a service of the Government as distinguished from a regulatory agency.

Would you call HEW a regulatory agency of the Government?

Mr. Cox. I guess that it is a combination of a number of things.

Mr. FORD. I sit on another committee that has jurisdiction over the Labor Department and the Labor Department is in some part regulatory—but when you get into manpower, they are service oriented and they contract out for this. So, in HEW I would wager with you that there has not been a statute enacted or renewed in the last 10 years that does not make all their activities subject to it. As a matter of fact, with the new legislation that is in conference right now, we are going to superimpose on that an additional requirement that when they put those regulations into the Federal Register for the 30 days, they serve copies on both the House and the Senate Committees so that our staff can see what they are up to over at HEW.

When we get Mr. Hanley's bill moving, I expect to have similar language for the Postal Service. We find it is helpful to be alerted ahead of time.

I would appreciate it if for the record you would indicate to us, if there are serious reasons why this statute would not be applicable, and I am serious, because if this is the case, I think we ought to be forewarned.

Give us some examples at your leisure time in the next 24 hours or so.

Mr. Cox. I would be happy to do that, sir.

Mr. FORD. Within a reasonable time, because I look at the memorandum how long it is taking you to answer the interrogatories at the Rate Commission. You have 202 unanswered after 14 months. Of 460 interrogatories served on you as of May 9, you had 202 unanswered, 33 had been answered insufficiently on May 3, 8 months after most of the interrogatories had been served.

Now, I am not being facetious when I point to this, because I still am interested in your suggestion here that that statute would be dilatory given the track record of how you are operating now.

I would like your analysis from a legal point of view, not a policy point of view, as to why the Administrative Procedure Act provision would not be applicable to those functions of the Postal Service not specifically included.

Mr. Cox. We would be happy to give you that, Congressman, and along that line, I think it would be helpful to all of us if we knew what specific areas that anybody is concerned with in respect to the APA.

Now, we do know about the Private Express Statutes and, as far as I know, there is no difference between any two people in this room about whether we ought to be following APA procedures with respect to private express statutes.

Mr. Ford. Our staff has a hunch that it would be a good idea, and you, as a competent lawyer, should be able to tell us why it would not work.

Mr. Cox. I certainly shall do that, but it would be helpful as we go down the road if we have enough interchange to have in mind what the specific points of concern are.

[The following information was furnished.]

U.S. POSTAL SERVICE,
LAW DEPARTMENT,
Washington, D.C., July 22, 1974.

HON. JAMES M. HANLEY,
Chairman, Subcommittee on Postal Service, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearing of July 9, 1974, I stated that the Postal Service opposes section 6 of H.R. 15511, which proposes to place the Service generally under the administrative procedure provisions of chapters 5 and 7 of title 5. This letter responds to Congressman Ford's request at the hearing for a more detailed explanation of our reasons for that position.

When Congress enacted the Postal Reorganization Act in 1970, it chose to indicate explicitly which postal activities should be covered by the rulemaking or adjudication provisions of the Administrative Procedure Act (APA), rather than to rely entirely on the provisions of the APA itself to determine that application. Congress decided that the legal structure of the Postal Service should reflect its central character as a public-service Government enterprise, engaged in a business-like operation providing a communications service to the public. The rulemaking and adjudication provisions of the APA are intended to cover more typical agency activities of a regulatory or program-administering character, which impose restrictions on or selectively distribute Government benefits to the private sector. Since the basic postal function of collecting and delivering the mail was considered to require decisionmaking with a flexibility and initiative that neither adjudication nor notice-and-comment rulemaking could provide, only those remaining postal functions which do correspond to the more traditional agency functions—including the rate and classification responsibilities of the Postal Rate Commission and the mailability responsibilities of the Postal Service—were made subject to APA adjudication or rulemaking.

Of course, since even on its own ground the APA does not itself require an agency to engage in adjudication and requires notice-and-comment rulemaking only selectively, one would expect that for the most part, postal functions of a sort with which the APA was not designed to deal would not be disturbed by a general application of that statute to the Postal Service. In our judgment, a proper reading of the APA would confirm that conclusion. The rulemaking provision, 5 U.S.C. §553, is designed to cover proposed quasi-legislative determinations with direct external application, not actions of a predominantly internal or proprietary character.

Nevertheless, courts occasionally have taken the position, we believe erroneously, that the notice-and-comment procedures are required when internal in-

structions or proprietary actions are of substantial significance to outside parties. While we believe that section 553 fairly could not be read to impose such a requirement with regard to day-to-day decisions of postal management, we cannot say with assurance that our view would prevail in every case, or indeed, would succeed in any number of cases before a proposed action suffers the extended delays of litigation. Where such uncertainties are left in the statutes, there is a considerable potential for persons who have no intent to provide a real contribution to the substantive decision at issue nevertheless to delay a program of considerable interest to the public merely for their own private interest in such delays.

In answer to a request by Congressman Ford for an indication of a specific area where such a disruption might be expected, I cited at the July 9 hearing the example of an internal instruction by postal management on how mail of a particular character should be assigned among carriers for shipment. Under the old Post Office Department, we had just such a case in which we were prevented from putting into effect an internal directive to some of our employees to implement certain procedures to expedite dispatches of military mail to and from overseas bases. A court enjoined the proposed action—in our view, quite erroneously—solely on the basis of a failure to develop this internal instruction through a rulemaking procedure under section 553. *Seaboard World Airlines v. Gronowski*, 230 F. Supp. 44 (D. D.C. 1964). The court admitted that the carrier had no substantive right at stake and it was apparent that Seaboard World's only interest was in obstructing, for as long as it could, a change in postal transportation practice that would reduce its revenues, because its service could not measure up to the new, higher standards. In the meantime, the public interest in quicker mail delivery suffered. Since many internal decisions of postal management with regard to mail transportation and other procurement practices and with regard to pick-up, delivery, and other local post office services may have a substantial effect on certain members of the public, the kind of interpretation of the notice-and-comment requirement exemplified by the *Seaboard World* decision could present problems for a broad area of decisionmaking currently committed to postal managerial responsibility and not easily handled in terms of traditional regulations.

There is an additional place where a general application of the APA to the Postal Service would introduce unfortunate areas of uncertainty. The Postal Reorganization Act provides for a careful division of authority between the Postal Service and the Postal Rate Commission with regard to postal rate and classification matters. The Act ties the APA into that structure by requiring a full evidentiary hearing before the Commission on permanent rate and classification changes. In our opinion, if those special provisions are retained while a more general requirement such as section 6 is enacted, that explicit provision for APA application properly should still be read as the complete APA requirement in the rate and classification area. However, again, these matters are much too significant to be dealt with in terms of implication or probability. For example, the sole purpose of the authority of the Postal Service to impose temporary rates is to provide the Postal Service a standby source of revenue necessary because of the delays encountered during a permanent rate proceeding, with its extended evidentiary presentation on the record. If section 6 should be interpreted to require a simultaneous notice-and-comment procedure before the Postal Service could impose temporary rates, the purpose of the temporary rate provision would be frustrated.

As I stated in my testimony on July 9, we have no objection to applying the APA to additional postal activities where there is some indication that its provisions are genuinely appropriate. We agree, for example, that Postal Service functions in regulating the Private Express area are, to a considerable degree, equivalent to the more usual regulatory agency activities to which the notice-and-comment provisions of section 553 generally apply. While we have followed the rulemaking route in that area as a matter of policy, and would commit ourselves under our revised proposed regulations to continue to do so in the future, we would not object to a specific statutory requirement to that effect. However, we do oppose the proposal of section 7 of H.R. 15511 to go beyond what the APA requires and what we have done in the past and instead to make proposed regulations under the Private Express Statutes subject to mandatory evidentiary hearings.

We are aware of no reason to fault the approach taken by Congress four years ago in applying the APA to specific postal functions, as deemed appropri-

ate. Where the object of legislation can be accomplished with clarity and specificity, wisdom would seem to prefer a disciplined remedy to a looser "shotgun" approach, whose consequences neither the Congress nor the Postal Service can identify with assurance. I would hope that the Committee would identify specifically whatever problems it sees in the current arrangement, if any, and attack them directly rather than in the manner proposed by section 6 of H.R. 15511.

Sincerely,

LOUIS A. COX,
General Counsel.

Mr. FORD. It comes as a great great surprise that anybody representing the bureaucracy would ever come before a Congressional Committee and ask to be included under the Administrative Procedures Act if they thought they could escape it. That is why we have it, and why the legislative branch fights so hard to apply it to actions of the people in the executive or in your case, a quasi-executive—

Mr. COX. I hope you will forgive me; I cannot refrain from noting that we have followed it where we have not been required to follow it in the Postal Service.

Mr. FORD. I want to find out why something you are doing would become a burden if you had to do it because of the law instead of voluntarily.

Mr. COX. We will be glad to get you that.

Mr. HANLEY. Thank you, Mr. Ford.

On the subject, why the delay in getting that material to the Postal Rate Commission, the inordinate delay.

Mr. NICHOLSON. I would like to comment on that.

I was tempted to respond when Mr. Ford brought this up. These are two cases current, the rate case and the classification case.

I believe you were citing interrogatories from the classification case.

My recollection is that there are some 800 interrogatories filed on us in that case and many of those 800 were multipart questions, such as for each year since 1969, please state the number of employees who manned windows and the average hours each year and the average cost per man-hour and so on, so that one question is a large piece of research in many cases.

At the same time, I do not believe that the numbers you read are current numbers. I think we have made—

Mr. FORD. May 9.

Mr. NICHOLSON. I believe we have substantially cleared all those up and made a commitment to the Commission that we would be clean on interrogatories on the classification case in the event that they would proceed in the direction that we thought we should proceed, namely, the piecemeal partial reclassification action.

We do not have a full-time staff available just for working on interrogatories, or indeed on Rate Commission business and quite the contrary, we are under considerable pressure to keep our manpower at headquarters down and keep the employment out in the field where it moves the mail and so on. So that we simply do not have the horsepower to process 800 interrogatories of a quite difficult nature in the classification case while at the same time there are another 800 interrogatories in the rate case and there simply has to

be the application of some kind of priorities as to which must come first, and all cannot come at the outset.

They all have to take a sequential position as we apply manpower and resources to the development of the answers required.

Mr. Ford. You told the Administrative Judge in the motion that you filed, not that you were having difficulty answering interrogatories because of your shortage of staff and so on, but that you had a massive study that had been contracted out underway, and that if time were given that the massive study would lay to rest most of the problems.

Mr. Nicholson. No. I do not think it is exactly that way. In our opinion, as Mr. Cox mentioned, we are at a watershed. We would either proceed with the case as we had originally conceived it or if that were not satisfactory to the parties and the Commission, and if the Commission felt that they could not proceed in the direction which we had originally intended, but instead wanted a basic reformation of the classification structure, then additional time was needed. The consistency of that is, I think, quite clear. At the outset, we had two years in which to make a submission to the Rate Commission. We said that the 2 years was not an adequate period in which to do the kind of basic and fundamental investigation that was necessary to have a full fledged reclassification proposal.

Since we had only a maximum of 2 years in which to do it, only a partial solution could be proposed and that is what we did.

The consistency comes out, I think, of the fact that when the Commission retained an organization to study the requirements for making a study of reclassification, that study of the requirements took 6 months and the scope of work indicated in that study—which was the Arthur D. Little study—indicates some \$8 million of work in the market area and in the cost area which would occupy a 2-year period. So that accounts for 2½ years if there were no gaps in between those steps, indicating that the path involved a 2½ year journey when we had only 2 years in which to make the proposal.

So that the decision to go with a partial proposal rather than a full fledged basic reformation was, I think, the correct decision to have made at the outset.

If the Commission is unwilling or feels it improper to go ahead with the partial solution and wants the basic solution, then it takes the kind of basic work necessary to make a basic proposal.

It was not that we wanted to make the study that we could not answer the interrogatories. The interrogatories themselves are a very considerable workload and they were not standing alone. They were standing side by side with an equal number of equally difficult interrogatories in the rate case and there had to be some priorities that we would observe.

Mr. HANLEY. What do you anticipate the 1974 deficit will be?

Mr. NICHOLSON. It will probably be \$400 million or more. Maybe slightly over \$400 million.

Mr. HANLEY. What do you anticipate doing, coming up with that through a supplemental appropriation, equity, or what?

Mr. NICHOLSON. No, sir. It is not a supplemental appropriation. This will have to be financed either out of net worth, which is difficult

to do, because that has eroded considerably, or for the time being, we are financing current operations by having borrowed \$500 million last June 27.

Mr. HANLEY. To date you have spent about \$500 million of bonded money for operating?

Mr. NICHOLSON. No, sir. We have not spent it all yet. We just borrowed it 10 days ago.

Mr. HANLEY. Then as we look down the road into the future, the 1975 deficit could be even larger, could it not?

Mr. NICHOLSON. Yes, it could.

Mr. HANLEY. It would appear in the offing, you would have to be thinking about another rate increase?

Mr. NICHOLSON. If the costs continue to rise, the revenue is going to be deficient.

Mr. HANLEY. Then on top of the decision yet to be made by the Rate Commission, it would appear that it may immediately be confronted with another deliberation, is that a fair assumption?

Mr. NICHOLSON. We are not down that path far enough yet—

Mr. HANLEY. But on the basis of what you said, it indicates this is a course that we can anticipate.

Mr. NICHOLSON. Yes. This rate case that is being processed now is not the last rate case that the Postal Service will require.

Mr. HANLEY. You have an ongoing procedure there that appears to me at this juncture to be endless.

Mr. TRAXLER. Mr. Chairman.

Mr. HANLEY. Mr. Traxler.

Mr. TRAXLER. I question your limitation of \$500 million a year for operational expenses, is that correct?

Mr. NICHOLSON. Yes.

Mr. TRAXLER. Do you have any anticipation that you may be borrowing new sums in the new fiscal year for operating purposes?

Mr. NICHOLSON. No, that is not our current intention.

Mr. TRAXLER. How do you intend to meet your deficit?

Mr. NICHOLSON. The reason for the operating borrowing that just took place mainly was to return us to a more favorable liquid cash position so that we could finance our obligations on a timely and effective basis without distorting other decisionmaking.

Our pay roll, for example, runs about \$400 million every 2 weeks. It will average that during 1975.

Our cash was down to less than, oh, about \$200 million or less than half the amount needed for a single pay roll.

Consequently, we are simply replenishing our cash so that lack of cash would not distort other decisions.

We will have a problem of debt financing of some kind, either out of equity or out of cash reserves as we move into 1975. Part of the question mark would be removed if the rate case were to be concluded, and permanent rates were to be installed.

Mr. TRAXLER. Sir, if memory is correct, you borrowed \$250 million earlier. Can you tell us what the status of that debt is?

Mr. NICHOLSON. Yes, that bond issue is for a 25-year period. The funds have been applied and none of those funds remain. We have additional obligations. We have some \$2 billion worth of commitments in the pipeline that have not yet been liquidated so that as those bills become due, as equipment is delivered or as construction reaches a point where progress payments are required, we have some \$2 billion of need-to-speed money already committed. But we have not yet needed to disburse the funds so there will be a requirement for additional borrowing for capital purposes to liquidate those obligations in the pipeline.

Mr. HANLEY. Mr. Traxler, you still have some time.

Mr. TRAXLER. Thank you, Mr. Chairman.

Having only recently come on the committee I have exhausted my inquiries. In dealing with my own checking account I am glad I do not have the problems the Postal Service has.

Mr. NICHOLSON. Would I be presuming if I connected up with one of the provisions in your legislation?

Mr. HANLEY. Go ahead.

Mr. NICHOLSON. This has to do with annual authorization that you and Mr. Cox were discussing earlier. The annual authorization makes financing quite difficult. For example, in preparing the rate case that is now current, which was submitted last September 25, the data on volume, revenue, cost and so on are based on the test year, which under the Commission rules of procedure in the case of the last September submission was fiscal year 1975.

Now, in that case, we assume \$920 million of revenue in 1974 from the public service appropriation.

If the annual authorization were a requirement, we would be sitting here now, let us say, considering the authorization.

Well, we would probably have the authorization by now, but we would be considering the appropriation for 1975. A rate case would involve a future year, and sitting here now while we would not know what we were going to have for 1975, we would have to be estimating or anticipating what we would have for 1976 or even for 1977 in the preparation of a rate case.

If we assume one figure and then subsequently a different figure came out, we would have a serious problem of amending that case either increasing or reducing the requirement from the postage area so that the case would seesaw back and forth before it would ever drop out.

I am not being insensitive, I hope, when I say this, but the authorization appropriation process usually does not lead to a final appropriation action until 3, 4 or even 5 months into the fiscal year that is then current. Our problem is to deal not with that year but with a future year which is all the more uncertain in the planning process.

Mr. HANLEY. Again, on the basis of what you said, the future is certainly anything—the fiscal future that is, is anything but rosy, and I am sure that the committee would be delighted for you to—and your associates—come on up and show us how you are going to keep this institution afloat without very drastic deficits and without continuing increases in the cost of mail rates.

On the basis of the information that we have at hand, it appears that you have got a bad matter that is going to continue to get worse.

Now, you can correct me if I am wrong, but you have said that up to this point you have dipped into the bonded money to the tune of about \$500 million.

Mr. NICHOLSON. For operating purposes, yes.

Mr. HANLEY. For operating purposes. You have said that the anticipated deficit for 1974 would be about \$400 million.

Mr. NICHOLSON. Yes, \$400 million.

Mr. HANLEY. We have already covered the ground whereas, apparently by the time the Rate Commission makes its final decision on the most recent rate increase, it will then be faced with another application for a rate increase.

Is this correct?

Mr. NICHOLSON. We have not reached that point.

Mr. HANLEY. But isn't it rather apparent on the basis of all that was said here.

Mr. KLASSEN. I think your assumption is correct.

Mr. HANLEY. That is the way we look at it. We would like to be told something different. If we could be sure that there would be no further rate increases, we could strike from this legislation the suggestion that you be subsidized up to 20 percent. But it is not at all apparent that you are going to be able to prevent further rate increases.

When was the most recent bond issue?

Mr. NICHOLSON. June 27, 1974.

Mr. HANLEY. What was the interest rate on those bonds?

Mr. NICHOLSON. This issue was financed from the Federal Financing Bank, and it is a 1-year term and the interest rate is 9.3 percent.

Mr. HANLEY. 9.3 percent and the previous issue, when was that?

Mr. NICHOLSON. February 1, 1972, at 6 $\frac{7}{8}$ percent for a 25-year term.

Mr. HANLEY. I see. You are aware of what is happening in the money market today. It suggests another overhead problem.

Mr. BAILAR. The Federal Financing Bank is a recent creation as I am sure you know, and it has been their policy to allow the Postal Service and other groups to borrow at approximately the rate they borrow at plus what I am supposed to call a nominal service charge.

I think it is too much but that is not an issue here. The rates we pay them, the 9.305 percent was based on the current borrowing rate that the Treasury has to pay.

Mr. HANLEY. Based on the overture by the Chase Manhattan Bank in New York, you will be paying 15 percent the next time you go to the well.

Mr. BAILAR. Part of the reason we borrowed for 1 year was an anticipation on our part that long-term rates might be lower next year.

Mr. HANLEY. Mr. Dorsey, with regard to the bulk system, what is the total cost?

Mr. DORSEY. We estimate it to be \$950 million.

Mr. HANLEY. That provides for 24—

Mr. DORSEY. Twenty-one bulk plants and 12 auxiliary service facilities.

Let me explain, the auxiliary service facilities are 12 post offices that we are going to use a combination of bulk and a regular post office. You have to do modification to existing post offices.

Mr. HANLEY. These, I assume, are very sophisticated installations?

Mr. DORSEY. No, they really are not, Mr. Chairman. They are industrial type operations, with the heavy emphasis on mechanization, with sack sorters, and parcel sorters and loading equipment for tractor-trailers.

There is nothing complicated about it. They are giant mail processing plants where parcel post and sacks of third-class mail can be handled basically mechanically.

Mr. HANLEY. How do they compare with United Parcel installations?

Mr. DORSEY. They are bigger. United Parcel handles only parcel post. These facilities handle parcels, and sacks of third-class mail.

Mr. HANLEY. How do the sorters compare with those of United Parcel?

Mr. DORSEY. Ours are different than those of United Parcel. I understand they use a pretty simple sorter, a very simple kind of distribution system.

They do not have to make as many separations as we have to make.

Mr. HANLEY. So, in essence, yours are more sophisticated?

Mr. DORSEY. In that comparison, they would be.

Mr. HANLEY. While on the subject, what percentage of the parcel business in the country does the USPS now enjoy?

Mr. DORSEY. I think it is about 40 percent.

Mr. NICHOLSON. Yes, I would say about 40 percent.

However, there is a lack of comparability here, Mr. Chairman.

In the case of what we call zone rated parcels which is the business that United Parcel is in, they have a larger number of parcels than we do. We have just under 500 million of such parcels but we also handle fourth-class catalogs; special-rate fourth-class material such as books, library materials, records, tapes, films and so on; and library materials, so that the total number of fourth-class items that we handle is close to 900 million pieces. This is larger than the UPS parcel business. Their parcel business is bigger than our equivalent business. Our total business in the small-shipments industry is larger than theirs.

Mr. HANLEY. Do they account for the other 60 percent?

Mr. NICHOLSON. No, there are a number of other carriers in the parcel business.

Mr. HANLEY. Mr. Ford?

Mr. FORD. I would like to pursue on page 2 of Mr. Cox' statement, where makes a point toward the middle of the page that this provision would favor certain competitors of the Postal Service who carry these types of materials.

You are talking here about the parcel post. You say this: These competitors do not serve all the Nation as we are obligated to do. This is a statement that got me into some difficulty a while back. They tend to concentrate where the cream is richest. I think I speculated that perhaps the competitors of the Postal Service were creaming the more

profitable business. The United Parcel Service, who are pretty big operators in my district, among others, objected. I went over and took a look at their operation and submitted to a briefing which was really an eye-opener to me, and really surprised me.

Now, you have heard of creaming, but I discovered for example, that there are some States where they are not operating. When I asked why, they made the assertion to me that the United States Postal Service is opposing before the ICC the extension of their routes into the balance of the 48 continental States that they do not now serve.

Is there such a policy with the Postal Service and why would you oppose them if you are suggesting that they are unfairly competing because they are creaming the business in the more profitable areas?

My recollection from looking at the map is that we were talking pretty much about Rocky Mountain States.

Mr. Cox. Yes.

Mr. Ford. Which I would not consider too creamy.

Mr. Cox. Would not consider to be what?

Mr. Ford. I would not consider the Rocky Mountain States to be cream. Most shippers have regarded that as a hell of a place to send something because it costs a lot of money to get it there.

Mr. Cox. I guess some of it is more like cream than the rest of it. In Arizona, UPS is trying to extend its operating rights throughout the State whereas they now operate in Phoenix and Tucson and two or three other larger areas.

On the ICC proceeding that you asked about, we did request the ICC somewhat belatedly, as I will explain, about a year ago—I am a little hazy as to the date—for permission to intervene. We did so in the aftermath of a decision by the Administrative Law Judge which said, as I recall it, that the Postal Service has not come forward to indicate that it has any interest at all in being heard in this proceeding, and this is a little bit surprising.

The UPS, I think, had come forward and said that it was very much in the public interest to extend their operating rights in the Mountain State areas, and in saying that, they made some less than complimentary remarks about the level of parcel post service that we were offering at that time in that area and, as I said the Administrative Law Judge, apparently found it strange that we had not come in to defend ourselves at all.

There was certainly language in his opinion that would lead one to see that. After we saw that, we did seek the permission of the Commission to intervene in that case, and we called it to the attention of the Commission that it might want to look into the question of whether it would be in the public interest to extend UPS's operating rights in light of the Marnell decision by retired Justice Clark in which the pretty well laced UPS up and down with respect to its business practices in California with respect to unfair competition and the like.

Mr. Ford. That is a separate question. I am not getting now into the question of whether they damage more packages, or whether they treat their customer as well as they should, but I had made this

assertion that they make a profit because they take the easiest part of the country with the highest concentration and that is where they deliver.

I might say driving through Indiana coming along a back road, I almost collided with a UPS truck coming out of a country lane. So they are going into the boondocks in some places. They showed me a map, and in the State of Nebraska—and you went to school out there—with 75 percent of the population living from the middle of the State to the eastern border, maybe 80 percent of the population, or higher, they are allowed to function in the highly populated area of Nebraska but they are not taking care of the cockleburs out in the western part of the State.

So, my question is, "Why aren't you out there?"

They produced a statement that they had applied to take the rest of Nebraska in, that that was part of the application before ICC and that you are objecting to that. Why would you object to that kind of distinction, if, in fact, the reason that they are more competitive financially is that they are creaming Omaha and Lincoln? Once you get past there, past Omaha and Lincoln where are the people? They already have the cream. Why don't you let them deliver it to the people in the sandhills, too?

Mr. Cox. If you are speaking about a Nebraska proceeding, that is news to me.

Mr. Ford. When you go west of there, you have an interstate movement. I guess that is where the ICC comes in.

Mr. Cox. That might be the case.

The UPS does provide for a pickup charge before they will pick up parcels from a customer. That kind of procedure, I suspect, tends to screen out the small shipper, the fellow who is "uncreamed," if you will. To a casual parcel-a-week shipper, or something like that, a pickup charge of \$2 or \$4 a week might seem like a lot of money. To a fellow who is shipping in quantities day in and day out, a pickup charge of \$2 or \$4 a week will not seem very much.

That might separate the cream from the milk a bit.

Mr. Ford. They also provided door delivery instead of delivery to the nearest post office.

Their contention is that by giving the additional service even though they are charging more money, people are willing to pay it.

Now, I am concerned with your statement to the committee today that they are creaming the better part of the business because they do not serve all the Nation.

They serve 40 States and they contend to us that they are seeking to get into the other 8 States and as a matter of policy, the Postal Service is objecting to their being in some of those 48 States.

Mr. Nicholson. Our objection is not on geographical grounds that they should or should not be in the other eight States, but there is another phase of the hearing examiner's opinion that caused us to seek the case. This part of his decision was that the eight States and the tacking rights that they are after would be granted with a condition precedent. The condition precedent was that they would liquidate a dual business they are in, a contract business as well as

a common carrier business, and that changed the terms of competition throughout the rest of the country, so that it was the opinion of the hearing examiner in establishing this condition precedent that suddenly affected our interests throughout the country. We were not concerned about the geographical extension and, as Mr. Cox pointed out, throughout the hearing both UPS and the law judge commented unfavorably at our absence, indicating that obviously we were disinterested, and we did not care about serving this country and only UPS was interested in serving the country, and I must admit those are rather stinging words.

We refrained from intervening with the development of UPS, which is a fine company and has done an excellent job for the class of customers they serve, but our reward for not intervening was to have our absence used as evidence that we didn't care about service to the country and that UPS should, therefore, be given these additional rights.

Mr. Ford. The record will show when Mr. Cox's predecessor was before this committee, we asked about a similar situation. Maybe the judge had read the language of the Federal judge down in Oklahoma City, who said in effect, "Where is the Postal Service?" when the Postal Unions went to court to try to restrain the activities of the competing service.

At that time and one of your recommendations later in your statement was that you should be allowed to proceed without going through the Department of Justice, and I will be a supporter of you on that at this point but at that time, the expense given by the Postal Service for sitting around as long as they did in that case was that they were having trouble getting the Department of Justice to OK the court intervention.

Mr. Cox. That is correct, Mr. Ford. In that case, we really were not sitting around and we really were finding that working through the bureaucracy did take time and we really were poised to go into court when the National Association of Letter Carriers in effect beat us to the courthouse door. But I welcome your advice that you may support us on that provision that would give us control of our own litigation. It would be of help to us.

Mr. Ford. I recall that instance because this is a second time that a judge or an administrative judge in this case had made an observation during the course of something, "Where is the Postal Service if they are interested in that case." The Unions were screaming for your intervention, because they were being blackjacked by the opinion at least suggested by the judge that this was only a matter that the employees were interested in and there was not any overriding public interest or the Postal Service would be in there fighting for it.

Mr. Cox. As you may recall, sir, we did in fact intervene as *amicus curiae* in this case. We were not completely out of it. We came in late because of this bureaucratic business that we talked about a moment ago. But we did make our interest known, and we repeated that, if I remember correctly, on appeal in the 10th circuit when the court in Denver affirmed the Oklahoma decision.

Mr. NICHOLSON. Could I go back to the creaming a minute?

I started to say that the creaming is not based on a geographical exclusion. I believe it is based on the nature of the origin of parcels and the nature of the delivery of parcels.

My recollection, and I know there are experts in the audience, and that they will probably correct this if I am wrong, but here in the Washington area for example, we probably have 100, 150, or maybe more points to which the public may bring us parcels, either in bulk or one at a time, over the counter.

UPS has a single facility in this general area, at Landover, Md. The consequence is that not many individuals bring their parcels to Landover, Md. So that the kind of people that know how to get access to United Parcel in this area have that quantity of parcels that makes it worthwhile either to transport them or have them picked up for a pickup fee.

The consequence is that the general nature of the UPS business is a multiple group of parcels tendered at one time, which is a business customer.

Generally those parcels, in their common carrier business, go to business addresses. So that their deliveries are more than one parcel at a time. It is this kind of business, of multiple parcels at the point of origin, and at delivery that distinguish this from the one-at-a-time over the counter and one-at-a-time delivery to a household.

I am saying that only to characterize the differences, not in any way to say that that is wrong. It is not. It is an excellent business and they serve that type customer extremely well, and they do it at lower rates over some 95 percent of the volume.

The United Parcel underprices the Postal Service by this much.

However, as that multiple shipment kind of business progresses, disappears from the Postal Service, and is taken up by other carriers, the Postal Service tends to become more and more purely a one-at-a-time parcel collection and delivery service, which is quite expensive.

Mr. FORD. But you have taken steps to cut that out and you now have a requirement with respect to parcel delivery in rural areas that you have to have a certain density of customers?

Mr. NICHOLSON. No, that does not apply to parcels. Where we apply rural service, the density has to be one family to seven-tenths of a mile of road.

Mr. FORD. So, if I were Sears, sending predominantly to rural people, I would have a greater percentage of deliveries to the door by dealing with them rather than you?

Mr. NICHOLSON. No, sir: I do not believe so. They cannot handle Sears business, as I understand it, because they may not deliver from a retailer to the end user in their common carrier business. That is the conflict with the contract service that I was speaking of and that would be liquidated under the recommended decision of the administrative law judge.

So right now it is our belief, my belief subject to counsel's criticisms, that the Sears-Roebuck business, for example, may not be handled by United Parcel.

United Parcel would handle shipments from a wholesaler to a retailer, but not from the retailer to the end customers under their common carrier business.

They do have retailers and customers in their contract business, which I think is where they started, delivering for department stores downtown out to residences in the neighborhood.

Mr. FORD. I still have more to learn about this, obviously, because one of the things I saw being started at this hub that fascinated me were plastic bags filled with rolls of wall paper, where people were ordering a specific pattern with a specific number of rolls. I was surprised they would be willing to take the risk of putting this rolled-up wallpaper which is not the easiest thing to keep intact, in plastic bags and they were going through there by the thousands. I started looking at some of the places, and they were going all over the place.

Every little place you could imagine in the State was represented. So, I imagine that was some kind of a retailer that was selling wallpaper to somebody.

Mr. NICHOLSON. Yes, and we handle baby chicks and live bees and mufflers and tires with just tags on them. Expensive kinds of business, particularly when the shipments go one-at-a-time to widely scattered recipients out on rural routes.

I must correct a misstatement. I said UPS is only in Landover, Md. They actually have four plants in this area. Our hundred or more locations are convenient for far more shippers of individual parcels than their four.

Mr. FORD. I am not here to defend UPS but I have been operating under some of the same assumptions that are contained in the statement and have recently been brought up short, at least to the degree that I observed in Michigan. As a matter of fact, the assumptions I had about why the Post Office was losing its business no longer hold water.

The statement is thrown around more or less constantly that this one company now in many parts of the country is delivering more pieces than the Postal Service, and like any other business, if the word gets out that somebody else is doing a better job, for whatever reason, and public opinion begins to go that way, you may not be carrying any packages. You will be left with the baby chicks.

Mr. NICHOLSON. Yes, the baby chicks and the tires and tail pipes and the bags of seed for rural areas which have long distances and expensive deliveries.

Mr. FORD. Let me ask another question of Mr. Cox if I might.

In commenting on sections 2 and 5 of the chairman's bill at the top of page 3, section 2 proposed an annual budget to be submitted as an independent appropriation.

I say section 5 proposes to submit the appointment of all five Commissioners to confirmation by the Senate. This is a sentence that I need explaining. 'While we would defer to the Commission and the Congress on the advisability of these changes, we would emphasize our belief that every effort should be made to insulate the Commission and its decisions from the possibility of any improper influence.'

Now, would the improper influence that you are talking about here be the Senate committee in the process of confirming, by the process of advise and consent" or would it be in the process of considering at the White House and the Budget Bureau the separate budget of the Rate Commission or both? What is the improper influence here that you are warning us about?

Mr. Cox. Mr. Ford, perhaps I can best answer that in this way. While the postal reform legislation was out on the drafting table, if I can use that expression, some thought was given downtown as to what would be the most appropriate treatment for the Rate Commission budget. Now I could not identify the view I want to express as that of any particular person—I do not recall it that well. But there was a sense in the room, if I can speak figuratively, that possibly if the Rate Commission's budget were subjected to the normal process of appropriations and so forth up here in the Congress, there might tend over the years in one way or another to be a little bit in the way of indirect improper influence on Commission decisions seeping in around the edges.

This was not a firm prediction and I cannot tell you that it was based on any particular experience. It was based perhaps on a general sense of what may have happened in some regulatory commission, or may have been alleged to have happened.

Mr. Ford. Who decides on the level of expenditure now for the Rate Commission?

Mr. Cox. Now, the Rate Commission submits a budget to the Postal Service. This is covered in section 3604 of title 39.

Mr. Ford. Presently, the Rate Commission submits its budget to the Postal Service, the Board of Governors ultimately decides on the budget, right?

Mr. Cox. The budget is considered to be approved unless the Governors—the Presidential appointees—unanimously cut it and that has not happened.

Mr. Ford. What you are telling me is that you are not concerned about—let us use your word—"improper" influence from the Postal Service which is in great contention right now with both the chairman and myself with respect to rates and classifications, even though you are contending with them about your position. You are not worried about an improper influence by the Governors on their budget but you are worried that, if Congress were the body to make the decision on the level of funding for their operations, they might exert improper influence. Is that a fair characterization?

Mr. Cox. I would prefer to characterize this part of the statement as simply an expression of a point that the committee may wish to consider. I would not want to go beyond that.

Mr. Ford. Whoever determined to level the budget might exert direct influence on the philosophy and conduct of the Rate Commission by the withholding or suggested withholding of a portion of their request for funds and there is nothing new about that sort of thing. Everybody knows that that is one of the reasons why appropriations committees are regarded in the State legislatures and here

in Congress as powerful committees, because the power of the purse carries with it certain persuasive powers.

If that is your suggestion, I can understand that, but in light of the fact that the present budget is handled by the Board of Governors when they are at times contending with this Commission, it seems to me that we are almost begging the question. It comes down to whether you trust the elected people in Congress more than the appointed people in the Board of Governors.

Mr. Cox. As you weigh the alternative risks, though, Mr. Ford, there are a couple of points that are worth mentioning. One is that the Governors, I think, can probably be counted on to be highly objective—they do not speak for any particular kind of mailer or class of mail which is in competition with other kinds and classes in the ratemaking process; they have only one “reason for being” and that is to represent the public interest.

Perhaps more practically important is the point that under the statute as it is written, as you of course appreciate, there are serious doubts on whether the Governors would ever actually cut the Rate Commission’s budget. It can only be done by a unanimous written decision and there are nine of them. It only takes one holdout to make it impossible to cut it. In fact, the way it seems to have worked so far is that there has been no apparent desire on the part of the Governors to do anything which might permit anyone to say that they are preventing the Rate Commission from having the resources it feels it needs to do its job.

Incidentally, one possible alternative suggested in another bill was simply to give the Rate Commission a “blank check” and let them draw on the Postal Service fund without any review by anyone. We think such a “blank check” authorization would be most unwise.

Mr. Ford. Of course, whatever they do is reviewable anyhow by the Board of Governors.

Mr. Cox. No, I do not think an administrative decision to spend money would be reviewable.

Mr. Ford. You are not worried about an undue influence being imposed. I thought you had explained that there might be a way for a special interest user of the mail to use the pressure of the appropriations process to apply pressure to ultimate decisions made by the Rate Commission.

Mr. Cox. Right.

Mr. Ford. Now, in the case of the Governors, they not only would be able to do that, but they also have the right to review a rate proposal by the Rate Commission after it has been made.

Mr. Cox. Yes, sir, although—in actual practice—a limited right to do much about it.

Mr. Ford. You went on and said you wanted to preserve that, that was an emergency brake that would be used only in special cases and so on.

Mr. Cox. Yes.

Mr. Ford. When you were talking about that, you were giving that as reasoning why it was not necessary for us to have an annual

authorizing procedure which would subject everybody involved to coming before this committee and the Congress on an annual or maybe a semiannual basis. While the chairman has suggested annual authorizations, it might be possible to stretch that out in some fashion to overcome the administrative problems that you mention here, so you would have advance notice.

But in talking about the principle of whether you should come here or not, what you come down to in both of these instances is the question of whether or not you trust the arm of the electorate, the Congress, to make these kinds of decisions, and I take it you are saying we would have more influence on ratemaking if the Rate Commission came to Congress than if it got it as part of the overall appropriation and income from the corporation.

Mr. COX. Well, I do not want to be rigidly definite about this, because I don't claim to have that firm a view of it. I think it is a judgmental matter. All we intended to do was to suggest, as I tried to explain earlier, that there is a point there to be considered by your committee.

Mr. FORD. Now, what about the second phase of it, the confirmation by the Senate? What is wrong with that?

Mr. COX. We have no objection to that. I suppose the paragraph you mention could be written more artfully. Let me be more explicit than the written statement is.

With respect to section 2, the colloquy you and I have just had represents our position on that. With respect to section 5, relating to the confirmation of Commission appointments by the Senate, the conditional clause of that last sentence is applicable to that one, but the part about improper influence has not got anything to do with that.

Mr. FORD. Would you support that portion of the bill in section 5 that would have the commissioners subjected to confirmation by the Senate?

Mr. COX. We would certainly have no objection to it. In that sense, I guess we would support it. It is not a thing where we could bring expert knowledge to help you make a judgment so we have less to say about that, if you will, than we do about other sections of the bill.

Mr. FORD. Thank you, Mr. Chairman.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. Dorsey has left the room but I note in response to my question related to the costs of the bulk mail system, he advises that it would be \$950 million. I further note that this is the same figure that was projected in 1971.

Could either of you gentlemen tell us how you have managed to stabilize this through these several years of inflation?

Mr. BAILAR. Mr. Hanley, I think I would make two comments. First, there have been some individual facilities or individual pieces of equipment in this total that have gone over. There have been others that have not.

Mr. HANLEY. They have gone over?

Mr. BAILAR. Some individual units of equipment or particular contracts on, say, the masonry for one of these units. It has not been uniform that everything stays within the limit.

The net has been equal—

Mr. HANLEY. The same number of facilities?

Mr. BAILAR. Yes, sir.

Mr. HANLEY. And no modifications?

Mr. BAILAR. Nothing of significance, no. I think perhaps most credit goes to the people who estimated the cost originally for their contingency planning.

Mr. HANLEY. So the figure he mentioned today is an accurate one?

Mr. BAILAR. Yes, sir, and at this point our best estimates are that when all is said and done in the fall of 1975, this will be within the prescribed limit.

Mr. HANLEY. The whole package will not have cost in excess of \$950 million, which was the figure projected back in 1971?

Mr. BAILAR. Yes, sir.

Mr. HANLEY. We can talk a moment or two about cost ascertainment. The feeling I get is that this is one of the great shortcomings within your entity. You really do not have a method of accurate cost ascertainment.

Has it improved at all over the course of these years?

Now, mind you, this is really the fundamental tool that the Postal Rate Commission has to work with, if they are going to be fair with the American public or the mailers.

The Washington Post, and I do not know where it got the figure, but it said that first class mailers were being overcharged to the tune of \$1 billion, as I recall, and this, of course, relates to this fundamental of cost ascertainment.

So what about your processing of cost ascertainment?

Has anything happened to it over the course of the last several years?

I go back some years ago during the tenure of Mr. Packer. This was an overture that was under way in concert with research and development which would have, I think, accomplished a pretty good system of cost ascertainment. What is the present status of that?

Mr. NICHOLSON. Cost ascertainment has undergone a revolutionary change. I think it is not correct to say that it is inaccurate. There are improvements that could be made in it.

Mr. HANLEY. The Rate Commission contends that it is.

Mr. NICHOLSON. No, sir, I think they say it is incomplete, and they do not agree entirely with the concept, but the argument or differences of opinion about the concept are different from the disagreement about the quality.

Mr. HANLEY. The information provided me from the Commission less than 2 weeks ago was that it was highly inadequate.

Mr. NICHOLSON. Inadequate, yes.

Mr. HANLEY. What is the difference?

Mr. NICHOLSON. I think there is a great deal of difference.

Mr. HANLEY. Explain it.

Mr. NICHOLSON. Yes, sir. There are a very large number of specific rate cells or classes of mail and subclasses of mail. Some of them,

the number of units in that rate cell are very, very small. For example—

Mr. HANLEY. Now in layman's language what is your process of determining—how do you go about it now? How has it changed?

Mr. NICHOLSON. Let me trace some of the history. The original cost ascertainment was pursuant to a law passed in 1926. It called for fully allocated costs. From 1926 to 1970, I believe it was, the old Post Office Department was subjected to all the attacks that could conceivably be brought against the philosophy of fully-allocated costs.

In 1970, the system was changed to a marginal cost finding system, and now we are told by some that marginal costs are apparently not right and that we should have fully distributed costs.

Now, I think that is basically the feeling of some elements in the Rate Commission staff, that we should have fully distributed costs, or something approaching fully distributed costs instead of marginal costs.

Now, that is a philosophical or a judgment issue. It is our construction that marginal costs are the most useful and the most fair instrument for measuring costs for ratemaking purposes.

Fully distributed costs serve some purposes and perhaps because one is making a lot of mathematical calculations, having previously made judgments, it has the appearance of a fourth-decimal place accuracy.

But that fourth decimal place is based on a judgment that has been made long before.

On marginal costs, we make calculations and then apply some judgments as to that part of the cost that is called institutional.

Now, that is the conceptual difference. For many years, whatever it is, from 1926 to 1970 is 44 years, we had fully distributed costs and those were wrong—we had full allocated costs under the cost ascertainment system as it was originally created.

My belief is that cost ascertainment was a blunt instrument. It does not assign rates to classes of mail in an appropriate manner for the public, the mailer or the postal establishment.

Switching now to 1970 and marginal costs, I believe we have to improve the quality of our data in order to find the costs for marginal costs. We have two things to do to find that marginal costs. One, we have to find out the amount of mail that occurs by rate class, and we have to find the amount of cost associated with that mail by rate class in order to get a cost per piece or some such relationship.

I started to say that some of these groupings are quite infrequently encountered. One that I happened to think about recently is congressional franked mail that is registered with a return receipt requested.

Now, to determine how many pieces of mail make up that total universe through a sampling system, if one month you get one and the next month you get two, which would not be inconceivable under a random sampling system, you apparently have a 100 percent increase in usage.

Now, that is a very unstable figure.

Meanwhile, you are measuring costs, and maybe the cost stays constant, but those costs spread over one piece of mail or two pieces of mail make a very different figure on costs per piece.

The rate must be established to recover at least that cost. One month's measurement would indicate, let us say a rate of 20 cents and the next month a rate of 10 cents, because two pieces occurred in the sample that month. That is what I mean by quality of the data.

We do not have that kind of depth of data that is reliable with a high degree of confidence for all of the subclasses of mail. We have been doing some studies of how to increase that reliability. In order to get a 95-percent confidence factor over the whole spectrum of mail would cost us, we estimate, \$200 million a year to do the measurements.

Now, in some of those cases, the cost of measuring the mail that makes up a rate class would exceed the revenue that we receive from that class. To spend that money does not seem to be prudent or sense-making or in the public interest—to spend more to determine what the data are than the amount that the mailer pays for that class of mail.

We would be loading him with not only the cost of handling of the mail but a greater cost for measuring that mail, so that his rates apparently would double because we chose to measure his mail in the necessary depth.

I do not mean for a minute to say that we are content with the quality of data that we are now collecting and we have made proposals and explained them to the Rate Commission and we had seminars on the subject. We are improving and extending our basic systems to get more adequate and higher quality data over a broader variety of types of mail.

So we are in the process of a journey—we have not arrived at the destination yet.

We think the concept is right and we intend to improve the quality of the data supporting that concept.

Mr. HANLEY. How long do you think it is going to take to accomplish this improvement?

Mr. NICHOLSON. We probably will never finish but I think we should make substantial progress in the next 2 or 3 years.

Mr. HANLEY. Mr. Traxler.

Mr. TRAXLER. Like my constituents in Sandusky, I have problems comprehending the magnitude of finances we are talking about here.

I would like to run through them again with Mr. Nicholson. If I understand what he has told us, and there may be other information here, but talking about income based on the temporary rate increase of 10.4 billion for the year 1975—your current borrowing is in the area of \$750 million.

Mr. NICHOLSON. Total to date, yes.

Mr. TRAXLER. And you have commitments for capital expenditures for \$2 billion.

Mr. NICHOLSON. Yes, unliquidated commitments.

Mr. TRAXLER. Your anticipated cost for 1974 amounts to, I think you told us, \$400 million.

Mr. NICHOLSON. Yes.

Mr. TRAXLER. What do you anticipate will be your loss for fiscal year 1975?

Mr. NICHOLSON. We are early into this year—too early to tell. We are looking at a possible figure of around \$475 million in operating loss.

Mr. TRAXLER. You have contract negotiations, a new contract coming up next year, I presume.

Mr. NICHOLSON. Yes, about a year from now.

Mr. TRAXLER. If the past holds any indication of the future, is it fair to assume that those new contract provisions will increase your costs in the area of \$750 to \$1 billion?

Mr. NICHOLSON. It is, of course, difficult to tell. It will probably basically be pegged to the rate of inflation, which determines what is necessary to maintain the present real purchasing power of employees, yes.

Mr. TRAXLER. Looking ahead to next year, is it fair to assume that the rate increase has to be 2 cents for first-class mail?

Mr. NICHOLSON. It would not be surprising.

Mr. TRAXLER. As high as 3 cents.

Mr. NICHOLSON. It is possible.

Mr. TRAXLER. Would it be to 4 cents.

Mr. NICHOLSON. I do not think so.

Mr. TRAXLER. You are operating with a temporary rate increase. When will that be made permanent?

Mr. NICHOLSON. That depends when the members of the Rate Commission make their recommendations to the Governors.

Mr. Cox thought this case might come to a close in several more months. We cannot control, nor is it right for us to guess when the Commission might conclude its work. Conceivably, it could be January or February of 1975.

Mr. TRAXLER. I see. So, within a period of a few months following on that, you would anticipate a temporary rate increase?

Mr. NICHOLSON. I think that would depend on a lot of things we do not see clearly enough yet.

Mr. TRAXLER. We seem to be operating most of the time on temporary rate increases.

Mr. NICHOLSON. Yes, we do.

Mr. TRAXLER. I want to say my constituents understand very well the 2 or 3 cent increase in first-class mail.

Mr. NICHOLSON. I think it might be useful for you to have an understanding where these deficits have come from. One effect in 1974, of course, was the running of higher levels of costs throughout the fiscal year 1974, including a wage increase effective July 21, just after the fiscal year began, with offsetting higher levels of revenue not beginning to flow until March of fiscal 1974. Our original plan had been to have higher levels of revenue in January, but that was postponed by the Cost of Living Council, and principally offset by a supplemental appropriation by the Congress. So, basically, not to pin it down to the exact months because of the slippage on the supplemental—we had 12 months of higher cost and a part year of higher revenue. The difference therefore is a loss of \$400 million. Inflation also was a factor in 1974 and it is a very strong factor in 1975.

The year 1975 that we had originally seen as a break-even year turns into a loss year, because of \$470 million odd of inflationary cost increases.

From an operating point of view, an efficiency point of view and a productivity point of view, our 1975 plan is a good, solid one but the cost of everything we purchase has caused the cost to rise by \$475 million, whereas, of course, revenue is fixed under the present temporary rates.

Mr. TRAXLER. Mr. Nicholson, would you help me for a moment to reconcile our conversations in the last few moments with a statement you made before the Committee on Appropriations, the Subcommittee of the Committee on Appropriations back in April this year.

In your testimony there, you talked about your estimate for revenue in 1975, you said that you were projecting a slight surplus of total revenues over total expenditures for 1975 and you were hopeful that you would be yielding a net income of some \$44 million.

Can you help me with that \$44 million as opposed to the kind of deficit you were just talking about?

Mr. NICHOLSON. Yes, that budget was the President's budget issued in January, with information developed in about November of last year.

At that time we did not see double digit inflation, we did not see oil embargoes, we did not see higher costs of energy, and at the time that I was testifying, I had no basic document except the January budget.

Since April we have been developing our operating plans for 1975, which basically start at the post office level and come on up through the organization until they are compiled at the national level.

What I am giving you now is what we have found from that ground-up process as we actually face the specific costs of things, post office by post office, throughout the system. That adds up to a number of the changes, and causes a net surplus to turn into a deficit.

Mr. TRAXLER. Thank you, Mr. Chairman.

Mr. HANLEY. Mr. Nicholson, as I understand it, with regard to rate increases and specifically with regard to the present temporary one now, should the Postal Rate Commission decide to disapprove the rate hike, then this goes to the Board of Governors who, in turn, are empowered to reject the disapproval. Is that correct?

Mr. NICHOLSON. Yes.

Mr. HANLEY. So that sends it back to the drawing board, is that right?

Mr. NICHOLSON. Mr. Cox is best qualified to answer that.

Mr. Cox. I suppose that could happen. There could be an outright disapproval, Mr. Chairman. The statute says that from time to time the Postal Service shall request the Rate Commission to submit a recommended decision, and that upon receiving a request, the Commission shall make a recommended decision on the request.

Now, I suppose the recommended decision could be "We recommend no increase in rates at all." Is that what you had in mind?

Mr. HANLEY. What I said was, in the event that the Rate Commission should reject your proposal for a rate hike—

Mr. COX. Oh, and come up with one of their own, or a modified one?

Mr. HANLEY. Modified or whatever, or in any event it would be less than the rate hike that you have asked for.

Mr. COX. Yes.

Mr. HANLEY. That would then go to the Governors.

Mr. COX. Yes. The Postmaster General and the Deputy Postmaster General, when we get one, do not participate in that next step.

Mr. HANLEY. They, in turn, would consider the recommendation of the Rate Commission?

Mr. COX. Yes, and then they may put it into effect, they may put it into effect under protest and in the event of protest, will either go to a federal appellate court, or return the recommended decision to the Commission. They may reject it, which may involve returning it to the Commission without putting it into effect. Under certain very limited circumstances, they may modify it. So they have those choices.

It might be relevant here to mention what the Governors said at the time of the first and so far only rate decision that they have had to make.

They pointed out that as a practical matter, if they did not go ahead with what the Rate Commission had recommended, the circumstance would probably arise under which the temporary rates that were then in effect would lapse. At that time they were talking about a temporary rate of 8 cents for first-class mail—and the old permanent rate was 6 cents. It was pointed out if they did not go along with the recognized decision, even though the Commission had not recommended everything the Postal Service had asked for, the consequence would be to jeopardize the temporary 8 cent rate. The temporary rate can only stay in effect 30 days after the recommended decision is presented to the Governors. That is the driving thing on the Governors in that situation. They cannot let that temporary rate lapse, as a practical matter.

Accordingly, they do not have very much practical choice in an inflationary period such as we have been in but to go along with the rates which the Commission recommends to them.

Mr. HANLEY. It appears to me that the Board of Governors in this sense, as opposed to being an independent entity equipped to make this judgment, would really be the voice of the Postmaster General, would it not?

Mr. COX. No.

Mr. HANLEY. Bearing in mind that the Rate Commission has spent a great deal of time, on a day-to-day basis, and is highly intimate with all the nuts and bolts related to this subject; and, after having made their decision, it is not approved by the Board of Governors—who really do not have the background to make that judgment—it would seem they would have to be influenced by someone and that “someone,” it is clear to me, would have to be the Postmaster General.

Mr. COX. As perhaps you know, I happen to serve as Secretary to the Board, so I do sit in with them at their meetings.

Mr. HANLEY. Is there separate compensation for that assignment?

Mr. COX. I regret to tell you there is no separate compensation for that assignment. Going back a couple of years again—

Mr. HANLEY. You have answered me. You are the Secretary for the Board of Governors and, as such, you have to be the pipeline for the Postmaster General.

Mr. COX. I was about to say that I can tell you about our experience of 2 years ago which, as you know, is the only rate experience we had with the Governors so far. At that time the Governors went about equipping themselves to deal with the Rate Commission's decision in the following way.

The first thing they did was to set up a committee of 3 of their members, I think it was, who became the experts on behalf of the 9 Governors, if you will, to the extent that they could. They had three or four meetings outside the regular full board meetings, and the meetings took place over various periods of time but one or two of them went on for most of the day, at least. They started off after the initial decision of the Administrative Law Judge, so they had a running start on the thing by the time the Commission's decision arose. The Postmaster General did not sit in with the Governors, either when the committee was meeting, or when the full slate of 9 Governors were meeting. He did not sit in with them when they were considering this decision. Now—

Mr. FORD. What is the matter, don't they like him?

Mr. COX. He had other things to do and the statute did not provide for him to do this.

Mr. HANLEY. How do they develop the necessary background to make these decisions?

Mr. COX. Now, at the time of the first rate case, they were briefed generally by, I think, Mr. Hargrove as to what the Commission had decided. The point that I made earlier here this afternoon that really there was not a lot of practical choices available was a point that did not take a whole lot of sophisticated analysis to arrive at. It was a pretty apparent point. The Governors are very capable of analyzing problems on their own. So there would not be any need for expert tutoring or that sort of thing. I do not believe when the statute was drafted, that there was any intention there would be that kind of tutoring and it did not take place.

Mr. HANLEY. Mr. Ford?

Mr. FORD. Just one final topic, Mr. Chairman. I have prepared an amendment for your bill, and I would like to discuss it with you a little bit.

The other committee on which I serve has jurisdiction over the Service Contract Act, and I don't have to bring you up to date about the problems we are having with it. But I was very much surprised when I discovered that you apparently, as Chief Counsel, had placed an interpretation on section 410 of the Reform Act that indicates that before we didn't use the magic words "as amended" referring to the acts that would govern the postal corporation—let me review this for you briefly.

Section 410 starts out by excluding the Postal Service from all Federal laws dealing with Federal contracts, property, works, of-

ficers and employees, or funds, including provisions of chapters 5 and so on.

Then that says, however, that the following things should apply with the Postal Service. As a member of this committee, I had something to do with the language of that.

I refer to the Miller Act and the Davis-Bacon Act, and section 276C, relating to wage payments of certain contractors, chapter 5; the Contract Work Hour Standads Act, chapter 15; the Government Losses of Shipment Act, and the following provisions of title 1, No. 1, Walsh-Healey, relating to wages and hours, and No. 2, chapter 6 of the Service Contract Act of 1965; and then, of course, title 6 of the Civil Rights Act of 1964.

Is it your position that, if the Civil Rights of 1964 is amended, that that amendment will not apply to the Postal Service?

Mr. Cox. I want to be careful what I say here.

Mr. FORD. I am not trying to try your lawsuit.

Mr. Cox. I understand that, sir. And as I expect you are aware, because this has come up in one form or another since the Postal Reorganization Act was enacted, we have had several questions about after-amended amendments to statutes incorporated into the Postal Reorganization Act.

I think the first time the underlying problem came up in any really significant way was at a time when the Congress, indeed this committee—it may not have been this subcommittee, but the full committee—had before it a bill amending the Federal Employee Health Benefits Act.

At that time, we took the view that if that Health Benefits Act was amended, the amendment would not be applicable to the Postal Service.

Since then, in a number of different legislative contexts, we have, I think, consistently taken the view that except for one area, and I intend to come back to that one area, an after-enacted amendment, unless the Congress said something to the contrary, either in the text of the amendment or in the committee reports to go with it, would not in our judgment be understood by a court as applying in a way that would amend the Postal Reorganization Act.

Mr. FORD. We are talking about two different things.

The immediate problem we have with Service Contract Act—

Mr. Cox. I want to come back to that.

Mr. FORD [continuing]. Is that you are saying changes made in that act don't apply to the Postal Service because those changes were not made specifically to apply to the Postal Service, but to all agencies covered by the Service Contract Act.

The Health Benefits Amendment, there was a specific amendment of the Health Benefits Statute to apply to the postal workers, yes.

Mr. Cox. In the form it passed the House, it would have applied, and I mention that because that is where we first started a colloquy, if you will, before this committee.

Mr. FORD. I think a check of the record would show that when that bill was before the committee, Congressman James O'Hara, who wrote the Service Contract Act of 1965, and with whom I

served on the Education and Labor Committee, asked me to be sure that the Service Contract Act was one of the acts considered in the list or contained in the list which would apply to this entity as it does to other Federal agencies.

I understand your position is that these acts enumerated here would only apply in the future to the Post Office as they existed then, or have been amended prior to 1970, or 1971, and any amendments which occurred to the Act following the adoption of the Postal Corporation would not apply to the Postal Service.

Mr. Cox. With one exception. Suppose the Congress made an amendment to the National Labor Relations Act which was integral to the whole scheme of the statute but which didn't change it in any major or radical way.

It is hard for me to believe that as to the Postal Service and only as to the Postal Service, that amendment would not have an effect, even though it did affect the rest of the country.

In that case, where there is an amendment that doesn't work any major substantive change in the statute, but is an improvement or adjustment within the existing scheme of statute, I think the amendment might well be considered applicable.

Mr. Ford. I don't think we can go along with you on that, and that is why we are going to have to amend the Chairman's bill to make clear what we intended here.

It is not the intention of this committee to try to retaylor the Walsh-Healey Act or any of the other acts enumerated to fit conditions as they change in the post office.

Mr. Cox. I understand that.

Mr. Ford. It was our intention that we would adopt for the new Federal entity, or transformed Federal entity, the rules that are made by other committees in other forms of legislation from time to time, dealing with the subject matter of these several acts. And it would be beyond the comprehension of anybody on this committee to assume that if title 6 of the Civil Rights Act is amended tomorrow, that it won't apply to the postal corporation, because that amendment came after the Civil Rights Act as it was mentioned here, solely because we left out the words "as amended," which frequently appear when describing these acts.

If it is the intention of the Postal Service to contend that all of these specific acts here apply only in the form in which they existed, I presume if you carried that to its logical conclusion, if we repealed the Service Contract Act of 1965, all other Federal agencies would be free except the Postal Service, which would still be bound by a law that had been repealed. Because if we can't amend an act and affect you, then we can't repeal an act and affect you, and we can't exempt you for whatever reactions we wanted to exempt a number or all of the Federal agencies from Walsh-Healey. And we decided it was an oppressive act for Federal agencies to operate under.

If we repeal Walsh-Healey, your interpretation would be that it was repealed for everybody but you, because you were bound—

Mr. Cox. I think it would be fair to impute to the Congress

an intention that we should no longer be under the Walsh-Healey Act, and that the courts would so hold if the matter were litigated. After all, the Labor Department would no longer be administering it.

Mr. FORD. The Labor Department does not seem to agree with you on this interpretation.

Mr. COX. We have an agreement with the Labor Department on how to work under the Service Contract Act which seems satisfactory.

Mr. FORD. All the lawyers are disagreeing with you.

Would it be helpful if we clarified section 410 to make it very clearly understood?

Mr. COX. What we are concerned with here is simply trying to comply with the intention of the Congress as to after-enacted amendments. Where the Congress in 1970, considering the Post Office—

Mr. FORD. But you see, none of these amendments applied to the post office. They did not apply to the post office before.

Mr. COX. I well understand that.

Mr. FORD. All we attempted to do was to say that because you are called a postal corporation—or whatever anybody wants to call you—that these acts that have heretofore been binding on your relationship with contracting out and so on, would continue to be binding.

What you are saying to us now over at the other committee is that that is all right except that if we changed one of those acts, you do not feel you are bound by the change.

Now, I don't find the rationale for that and we do not want to argue your case for you. I am asking you if it would not be helpful for you for us to clarify what I conceive to be the original intent of this by saying that any change in that act will continue to affect you the same as all other Federal agencies.

Mr. COX. The trouble with that kind of clarification is that you may take on more than you want to. It seems to me a more helpful clarification would be to amend the Service Contract Amendments to say these would apply to the Postal Service. From my standpoint, which is one of trying to follow the legislative intention as the courts would probably construe it, we would have no objection to that.

Mr. FORD. That is a problem, because what you are asking us to do with your interpretation is to have this committee take over the jurisdiction of all these other committees with respect to the Postal Service, and what is or is not good policy for service contracts.

You would switch that around now and say that the Labor Committee should decide, instead of the Post Office Committee, what should or should not apply to Postal Service, and not the least of our problems is the point of order on procedure when we get to the floor with the committee trying to select out the Postal Service.

Now, if we amend the Service Contract Act and the Postal Code has, in turn, picked up that act, there is no problem but if we try to write in the committee over there an amendment specifically apply-

ing to only the Postal Service, the chairman of this committee, Mr. Hanley, is going to write a letter to the parliamentarian and say they are out of their ballpark.

Mr. COX. I suppose there is some reason you would have, but I do not see why it would not be appropriate for this committee to write that kind of amendment.

Mr. FORD. That is what I am asking you. I think we can do it by adding the words "as amended," and explanatory language.

Mr. COX. Our concern has been that the Congress by "thinking Postal Service," if you will, in enacting after-enacted amendments to an incorporated statute before we decide that the Congress intended to affect the Postal Service. We do not want to impute to the Congress an intention that it does not have.

Mr. FORD. Do you think you can get anyone in this town to buy that if you are talking about the Civil Rights Act?

Mr. COX. I am not particularly familiar with that section of the Civil Rights Act. It has to do with financial assistance programs that don't arise in the Postal Service.

Mr. FORD. Is there any question in your mind that, if we tightened up section 6 of the Civil Rights Act, that there would be any question that it applied to you whether we thought about you or not?

Mr. BAILAR. No, there would not be.

Mr. COX. I would like to look at the amendment.

Mr. FORD. It was not contemplated, that anyone looking at one of these acts would be thinking about the Postal Service or anyone else.

You have the same thing with OSHA.

Now, what do you do with that one?

Mr. COX. On OSHA we are complying with that just as any other Federal agency would.

Mr. FORD. Has that been official?

Is that now official policy, some specific act taken by someone?

Mr. COX. I cannot as I sit here identify any directive or regulation. As I understand it, it has been our policy right along to proceed as we would if OSHA were applicable.

Mr. HANLEY. Will the gentleman yield?

Mr. FORD. Yes.

Mr. HANLEY. With regard to OSHA, may I ask, have there been charges leveled at any time against the USPS for violations?

Mr. COX. None I know of. I do not want to imply there have not been any. I simply do not know.

Mr. HANLEY. Apparently there have not been any.

Mr. COX. It is possible there have been and I do not know about it.

Mr. HANLEY. Wouldn't you as legal counsel have been advised?

Mr. COX. I presume, but there are 85 or 90 lawyers in the Law Department and sometimes things come into the organization that I do not know about.

Mr. HANLEY. My question relates to observations that I have made with regard to flagrant violations of OSHA regulations within the postal facilities and I just wondered whether the inspectors ever get on the USPS. Apparently not. That is very interesting.

Mr. COX. I do not want to say anything that could possibly mislead you. I do not know whether there have been violations.

Mr. BAILAR. Mr. Hanley, we can review our records and supply a definitive statement for the record.

Mr. HANLEY. I observed the violations and thought this was somewhat unfair, that other entities in the private sector have to concur and, if not, they are penalized.

On the other hand, here is a government entity that is in violation and currently is avoiding the penalties.

[The following information was subsequently furnished by the Postal Service:]

Since the Occupational Safety and Health Act took effect in 1971 through July 15, 1974, 86 complaints concerning the Postal Service have been filed with the Occupational Safety and Health Administration of the Department of Labor. These complaints have been processed by the Postal Service in the same way that would be followed by any other Federal agency.

Of the 86, 47 have been determined to be not valid, 34 either valid or partially valid, and 5 are pending. Corrective action has been taken in the case of each valid or partially valid complaint.

Mr. BAILAR. As I think you know, Mr. Chairman, one of our principal plans now is a working condition improvement program, part of which is related to OSHA.

Mr. HANLEY. I know that in the past year there have been many corrections, but there were thousands of violations in the postal facilities and I mean very serious ones.

Mr. BAILAR. My comment was meant as a recognition that there is a great deal to be done, that is why we have the program, and there remains a great deal to be done yet, unfortunately.

Mr. FORD. But the question is as to the principle. Do you think OSHA might be a useful thing for you to look at once in a while or do you feel you are bound by it?

Mr. BAILAR. I am not a lawyer, Mr. Ford.

Mr. FORD. What is your policy? Counsel says he feels you should comply with OSHA.

Mr. COX. Yes, sir.

Mr. BAILAR. Before Mr. Wilson's subcommittee 2 weeks ago, we mentioned that we have our new facilities regularly examined and we insist on statements of compliance from the architects, and we are very much aware of these obligations. We make every effort to have all of our facilities meet the OSHA requirements.

Mr. HANLEY. You mentioned the new ones, but I think for instance an observation in Mr. Ford's district that I made some time ago. There was a facility that would have been loaded with violations.

Mr. BAILAR. I cannot say I am surprised.

Mr. HANLEY. Do you have anything further?

Mr. FORD. No, what we have here will be concerned with the service contract. You talk about the size of the post office. All of the civilian employees of the Defense Department, for example, are involved and it is one of the biggest contracting areas we have.

It is one of the reasons why the legislation is back before our committee for hearings. They managed to work with it, and that is why

we were astounded when we found on the basis of size and other considerations, the Postal Service would think that they had a greater ability to escape the provisions of that act than the Defense Department.

Mr. Cox. We have no intention to escape anything, Congressman Ford.

With respect to the after-enacted amendments that gave us problems, title 39 of the U.S. Code, as enacted by the Postal Reorganization Act, specifically states for certain kinds of transportation contracts that have authority to enter into contracts up to 4 years, or up to 6 six years in some cases, if I remember correctly. One of the provisions of the Service Contract Act, one of the things that it amended, as you recall, speaks of multiyear contracting authority and makes contracts extending over 1 year, if I remember correctly, subject to approval by the Secretary of Labor. Thereby, that places the Labor Department in the kind of a veto position vis-a-vis contracts of many agencies that are subject to the Service Contract Act amendments.

So here we have a clear conflict between a provision of the service contract amendment which puts a question mark over any contract running more than 1 year on the one hand, and provisions in the Postal Reorganization Act that explicitly state that we can contract for certain kinds of transportation for 4 or 6 years.

Now, how should we resolve the conflict?

Mr. Ford. That wasn't the issue that caused you to rule you were not bound by the act; it was a question of setting wages.

Mr. Cox. It certainly was one of the issues. But let me speak quite openly with you. Just as a matter of professional responsibility as a lawyer, I am not so much concerned with whether the Service Contract Act amendments apply or not. But I am deeply concerned with the general doctrine, as it will be perceived up here on the Hill and in the courts as to what happens with respect to after-enacted amendments, and the reason I am concerned about that is that I do not want an act to go through Congress in which unwittingly, without the Congress really focusing on it, some big change is made in the postal scheme of things.

I think it would be much sounder doctrine, and I think there is a lot of case law showing that the courts have reviewed the problems of after-enacted amendments in this way, to take the line that we have taken. The legislature—be it the Congress or a State legislature—should make its intention clear. Then it would be up to us to follow that intention, rather than to suppose that we are swept up automatically on the coattails of some legislation in which nobody seems to have ever even thought of the Postal Service.

Mr. Ford. It would seem to me to be a more responsible position for you to ask either this committee or the other one to clarify the conflict you see on the length of a contract rather than using that kind of a conflict as the reason why you do not want to abide by the other provisions of the Service Contract Act.

Mr. Cox. It is not a question of not wanting to work with you, sir. It is a question of wanting to solve this legal question in a rational way as the courts would solve it if it came before them.

Mr. FORD. Has anyone raised that conflict yet.

Mr. Cox. As far as I am aware, and putting to one side for the moment the litigation that you mentioned which was brought by an arm of the American Postal Workers Union, we have no controversy under the Service Contract Act. We are in agreement with the Labor Department. There are no difficulties between us as far as I know.

Mr. FORD. If there are no difficulties, I do not see how you stay in court.

Mr. Cox. That is a question that we do not understand, either, to tell the truth. The judge decided to keep us in court, and I believe it was suggested that the Labor Department is a necessary party to the litigation, and I do not understand it, since we do not have any conflict with the Labor Department that I am aware of. But that was Judge Green's order, and we will comply with it.

Mr. FORD. Finally, the Labor Department takes the position that you were covered by the Service Contract Act

Mr. Cox. By the amendments, I suppose you mean?

Mr. FORD. The amendments, yes.

Mr. Cox. Certainly there have been people in the Labor Department that have done so. I guess I should not try to speak for the Labor Department. I shall be glad to send you for the record a copy of the agreement that we now have with the Labor Department.

[The information follows:]

U.S. POSTAL SERVICE,
OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., March 3 1974.

Mr. RAY DOLAN,
*Assistant Administrator,
Employment Standards Administration,
U.S. Department of Labor,
Washington, D.C.*

DEAR MR. DOLAN: At the meeting on December 21, 1973, with you and your representatives and representatives of the Postal Service, tentative agreement was reached on certain matters relating to service contracting by the Postal Service. It was further agreed that the Postal Service would reduce these matters to writing and present them for the concurrence of the Department of Labor.

Attached is a memorandum reflecting our understanding of what has been agreed upon. If you agree with this statement, we would appreciate receiving an acknowledgment to that effect from you.

We would like to take this opportunity to express our appreciation for the consideration and cooperation extended by you and your representatives in this matter.

Sincerely,

J. F. JONES,
Director, Logistics Department.
CONRAD L. TRAHERN,
Office of Procurement.

SERVICE CONTRACTS OF THE U.S. POSTAL SERVICE

The Postal Service and the Department of Labor agree to act in accordance with the following procedures in carrying out the program for minimum wage determinations applicable to the service contracts of the Postal Service.

1. TRANSPORTATION CONTRACTS

The present method of issuing a wage determination by April each year through the use of the survey method will be continued. The Postal Service will

furnish an SF-98 and a copy of the collective bargaining agreement where a new solicitation requires substantially the same equipment, and the same service as previously furnished by a contractor having a collective bargaining agreement. The Postal Service will not file an SF-98, but will incorporate a wage determination where the new solicitation will involve an increase or decrease of 20 percent or more in the distance in effect at the expiration of the expiring contract, or a change in equipment from straight truck to tractor trailer or reverse from tractor trailer to straight truck.

Whether an SF-98 will be furnished in questionable situations is a matter for final determination by the Secretary of Labor.

2. OTHER CONSIDERATIONS

With respect to nontransportation contracts, an SF-98 will be furnished, together with a copy of the collective bargaining agreement of the previous contractor, if one exists.

3. ALL CONTRACTS

(a) The Postal Service may enter into multi-year contracts, as authorized by the Postal Reorganization Act, except that such contracts will be amended every two years effective on the anniversary date of the contract, to incorporate the latest applicable wage determination issued by the Department of Labor.

(b) The Postal Service will include in contract solicitations a provision that, upon award of the contract, the contractor will furnish a copy of any applicable collective bargaining agreement and that, during the term of the contract or any extension thereof, the contractor will furnish a copy of any applicable new or amended collective bargaining agreement.

(c) SF-98s furnished will not include information on federal employee wages. These procedures are to take effect following acknowledgment by letter from the Department of Labor to the Postal Service that they accurately reflect the agreement reached between the Postal Service and the Department of Labor. The Postal Service will implement these procedures as quickly as practicable by issuing appropriate instructions to its field personnel.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT STANDARDS ADMINISTRATION,
Washington, D.C., March 11, 1974.

Mr. J. F. JONES,
Director, Logistics Department, U.S. Postal Service, Washington, D.C.
Mr. CONRAD L. TRAHERN,
*Director, Office of Procurement, Procurement and Supply Department,
U.S. Postal Service,
Washington, D.C.*

GENTLEMEN: This responds to your letter of March 3, 1974, relating to service contracting by the Postal Service. The attachment to your letter accurately reflects the agreement reached between the Postal Service and the Department of Labor. We look forward to working with you on this basis in the future.

Sincerely,

RAY J. DOLAN,
Assistant Administrator.

Mr. FORD. Then I understand your only objection to the amendments of the Service Contract Act is the possible conflict in the length of time that you could contract out transportation?

Mr. COX. I would not want to speak definitively to that, because I do not have the whole thing as clearly in mind as I would have had if I had known we were going to get into this.

Mr. FORD. But if you contract out janitorial services or some function that is now being performed by postal employees, would you feel the provisions of the Service Contract Act with respect to the limitations on that kind of a contract would apply to the Postal Service?

Mr. Cox. We would go to the Labor Department and ask for the appropriate prevailing wage determination in accordance with this agreement we have with the Labor Department. I doubt we would ever get to a controversy over the amendments as contrasted with the basic act. We have agreed with the agency charged with the administration of the act and its amendments as to how to proceed, and as far as I know, they have no difficulties with it.

Mr. Ford. My concern really is not with the Service Contract Act legislation. We will take care of that and we will not have any trouble.

I think we will get that cleared up.

My concern is that only by the coincidence of the fact that I have to sit on two committees did I become aware of this constriction you were putting on section 410 and if it applies to the Service Contract Act, it would apply to all of the others.

Mr. Cox. We have made no secret of it, sir. We have commented on dozens of bills over the last 3 or 4 years, making the same point. The Congress has enacted legislation saying in some cases "And this shall apply to the U.S. Postal Service."

One of the things I think we have been trying to do in the interests of having a better understanding all around about how this Reorganization Act of ours should work is to try very carefully to build up a common doctrine, if you will,—one shared by the legislative side—on how these after-enacted amendments should be treated.

Mr. Ford. We started out by saying we will clean the deck and that all statutes of general application to Federal agencies will not apply to the Postal Service except the following 10 or 11 acts.

How anyone could construe that as being our intention that to the extent those Acts regulated federal activities in general, they were going to continue to regulate the Postal Service, because, if nobody else on this committee was here, I was here to try to do the best I could to make the act better than what came up here. I was as much responsible as anyone in the Congress for the inclusion of the Service Contract Act as one of those enumerated, and then I come to find that that does not apply if you change the Service Contract Act.

We changed it as to the post office. We changed it as to its general application and we will probably change it again before the end of this Congress and who knows, after the impeachment proceeding is over, they may have changes in the Civil rights Act.

Walsh-Healy is under examination by our committee. We cannot be enacting Federal legislation that applies to the whole Federal Government on the one hand, and be held up with the idea that any agency that feels if they are not specifically named, they are excluded, especially in the first instance when we made it clear that we wanted to exclude them from some Federal acts by enumerating those you were not to be excluded from. So, I see no remedy other than the vehicle of the chairman's bill here to make clear that it is our intention that the Postal Service be included the same as all Federal agencies.

Mr. Cox. Yes, I fully understand the position you are stating but I do not know if I ought to impose on the committee's time to make equally sure you understand our position but I would be delighted to talk further with you about it.

Mr. FORD. I think we have a philosophical difference. It comes down to the question of whether you are reluctant to accept the fact that the Postal Service is a continuing Federal activity. This legislation, civil rights, wage and hour legislation or anything else, applies.

It was our intention in these acts covering this subject matter that when we say that the Federal Government, like state governments, like local governments, like private enterprise, will comply with the Civil Rights Act, title VI, we mean it.

Mr. BAILAR. Mr. Ford, we are not in the least bit reluctant to accept that. The Postal Service is a continuing Federal activity.

Mr. HANLEY. This has been an interesting colloquy. I think it is incumbent upon the committee to get with this part of it.

Mr. FORD. We will prepare an amendment, Mr. Chairman, and send it over to you for comment.

Mr. HANLEY. So that we will assure that there will not be anything that is misinterpreted. May I ask why it was necessary for the supervisors to ask for and get legislation that would assure consultation rights? Why did that become necessary?

Mr. KLASSEN. I don't think it was necessary at all. I had hoped we would build a better relationship with them and it would not be necessary.

Mr. HANLEY. They were adamant about it and worked very hard on the legislation that was subsequently approved. That was a little troublesome to me to note the necessity of that overture, because, as you know, contained in the original act, the intent of the Congress was quite clear, and—

Mr. KLASSEN. We would like them to be considered and recognized as management people. We would like them to think as management people:

Mr. HANLEY. But they really are not management people in the sense that they are managers of the private sectors because they are not policymakers, now.

Mr. KLASSEN. There are very few management people who are policymakers.

Mr. HANLEY. The troublesome aspect of this is that that category of people whom I believe you should be so dependent upon for the implementation of your policy and your program would find themselves in what apparently was a very abrasive situation that could not have been taken care of administratively.

Mr. KLASSEN. You must keep in mind, first of all, out of the 35,000 supervisors that belong with that group, they all came from within the ranks, all have been union members.

Mr. HANLEY. And all are very fine people.

Mr. KLASSEN. Yes, and they have been unhappy about their pay and that of the people they supervise.

We have had conversations all over the country about this. I was disappointed, because I felt we had shown the kind of evidence that would cause them to accept the obligation that they have as management people. They are management people and as far as the rank and file employees are concerned, they are the management. Those are about the only individuals they come in contact with as far as the management goes.

I think Pete Dorsey, who has been working with them on a close basis can add comments.

Mr. HANLEY. For what it was worth and prior to Mr. Dorsey's response, many members of the committee were concerned that this legislation became necessary in recognition of how dependent you as the chief executive officer would be on an excellent rapport between your troops on your level and those on the supervisory level.

So, for it to become necessary for them to ask for and get legislation puzzled many of us and certainly transmitted a message that all was not too well.

Mr. DORSEY. I think it puzzled us, too. We did not see any need for it. We meet on a regular basis. We have not been negotiating with them as a labor union. We do consult with them on policies and practices that affect their members, and those who are our managers.

I did not see any need for the legislation. I think it is wise to point out that the two postmaster organizations represent about 31,000 postmasters and they did not seek the same kind of legislation and they are all covered by the same section of the law with respect to consultation.

The only thing I could say was that I was surprised that they were seeking the legislation.

I meet with them every month. We have a regular, scheduled meeting with them that usually lasts half a day and sometimes longer than that. We have an agenda, they submit items that they wish to be informed about, and we attempt to resolve the problems. We do not always do that to everyone's satisfaction as you can well understand but we do consult with them on things that affect them.

Mr. HANLEY. During your absence, it came to my attention that the figure you projected with regard to the total cost of the bulk mail system would be \$950 million. I might note that this was the same figure that was advanced back in 1971 and Mr. Bailar responded to my question; do you have any comments on it?

Mr. DORSEY. Yes.

The GAO Report which was recently issued on the bulk mail system indicated that the budget was \$950 million and that it appeared that that would be the cost of the bulk mail system. That there would be no overruns of that amount.

We still feel confident that we will be able to live within that budget.

Mr. HANLEY. Despite the inflationary period occurring over these 3 years, apparently back then, that had to be a highly inflated figure.

Mr. DORSEY. Or there were tight estimates made and we held the contractors to those estimates.

Mr. KLASSEN. In some areas, we are above what we budgeted, and in other areas we are below it. In the total, we came out whole.

Mr. DORSEY. I think some of our contractors are in a tight spot on these contracts.

Mr. HANLEY. You cannot get a contract today without an escalator clause, so it is a little hard to understand how you could stabilize that figure and keep it that way, which is commendable.

Mr. Ford?

Mr. FORD. We could find a guy over there who is responsible for this. I will be his agent and we will become millionaires while we tell the schools in the country how to do it.

Mr. DORSEY. I think you have to recognize, Mr. Ford, that these are not elaborate facilities, they are all alike except for a few.

Mr. HANLEY. That would not enter into this at all.

Mr. DORSEY. We were able to bid them all pretty close to the same time so we got the same prices around the country before inflation really set in.

Mr. KLASSEN. We also ordered the equipment at one time for all locations.

Mr. FORD. You may have a lot of defaults on those suppliers' contracts.

Mr. KLASSEN. We may indeed.

Mr. HANLEY. I have chatted with you in the past in this regard. When the USPS selects a site to build a facility and moves into a particular community and buys a site, in many instances that land sits there for a long period without being used, thus depriving that municipality of the tax revenue which it justly should have. This has been very troublesome to me, and in fairness, I could only think that you would have to support a provision which may be ultimately contained in this bill, which would require that after a reasonable period of time, the USPS would have to be obligated for the tax revenue. Wouldn't that be fair?

For instance, you buy a site, you have perhaps 12 months or 1 year and after that time, wouldn't it be fair that that municipality would be entitled to the property tax that it ordinarily would enjoy?

Mr. BAILAR. I think, Mr. Chairman, that would be fair with the exception if we really are using it, or had started construction on it, toward the new facility.

Mr. HANLEY. Obviously, you have a use for it or you would not be buying it.

Mr. BAILAR. Yes, I say using it or having construction under way. I think the Postal Service could dispose of property that has been purchased in the past and not put to use and we have a program under way to that end.

Mr. HANLEY. That is fine, but once you buy that piece of property, and he removes it from the tax roll, then if you were to have, say, 12 months to get going with your project—

Mr. KLASSEN. Mr. Chairman, I do not know whether 12 months is the right time but the idea makes good sense and we have no quarrel with that. The idea that we are buying property and talking about building on it 10 years later does not make any sense to me.

Mr. HANLEY. The taxpayers in that locality get hurt and their tax rate suffers because of that, so that certainly would support your statement.

Mr. KLASSEN. I have seen property we have bought 15 years ago.

Mr. FORD. Not too fast, because one of those pieces is in my district, we are still sweating out a post office.

Mr. DORSEY. Where is that, Westland?

Mr. FORD. Yes. There was a guy named Gronouski who approved that post office.

Mr. HANLEY. A fellow by the name of Ben Franklin approved one my way.

Mr. FORD. Yes.

Mr. HANLEY. That is it. General and gentlemen, again our appreciation for your cooperation today and as we launch this effort, we anticipate your continued cooperation and I feel certain that the end result of this overture is going to provide for a better format for your people. We are all in this thing together, so to speak. Our only aim is to hopefully eliminate whatever shortcomings presently prevail to get on the road with the job.

I say again to you, Mr. General, that your task is a Hereulean one and in many quarters there have been attempts to oversimplify it. As I have said so many times, you are dealing with the largest industry in the world and certainly it is going to require some time to effect the transition that was envisioned at the time this act was enacted.

Mr. KLASSEN. Mr. Chairman, I want to say we appreciate the opportunity to talk with you about this because we think this discussion is very timely.

Mr. HANLEY. Thank you. We will look forward to seeing you again.

The hearing is adjourned until 9:30 tomorrow morning. At that time the Rate Commission will appear.

[Whereupon, at 4:55 p.m. the subcommittee recessed until 9:30 a.m. July 10, 1974.]

PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

WEDNESDAY, JULY 10, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE,
Washington, D.C.

The subcommittee reconvened, pursuant to adjournment, at 9:35 a.m., in room 210 of the Cannon House Office Building, Hon. James M. Hanley (chairman of the subcommittee) presiding.

Mr. HANLEY. Today is the second day in our series of hearings concerning amendments to the Postal Reorganization Act. One of our main subjects today deals with the Postal Rate Commission.

H.R. 15511 provides a greater degree of independence for the Commission. It would separate the Commission's budget from the Postal Service's, it would make Commission rate decisions final, Commissioners would be subject to Senate confirmation, and a vice chairman would be designated.

The bill also broaches the subject of temporary rates—extending the time before the Postal Service can place temporary rates into effect and limiting those rate increases to 10 percent.

Obviously, there are many directions we can take to attempt to improve the current way in which rates are set—which is now a difficult and certainly very expensive process.

H.R. 15511 just outlines one approach which would not reduce the time and expense but would at least make them more worthwhile.

I encourage other comments and proposals.

And our first witness this morning will be John V. Maraney, as executive director of the National Star Route Mail Carriers Association.

Mr. Maraney, for the record, please introduce your associates.

**STATEMENT OF JOHN V. "SKIP" MARANEY, EXECUTIVE DIRECTOR,
NATIONAL STAR ROUTE MAIL CARRIER'S ASSOCIATION, ACCOMPANIED BY JOHN ALLISON AND BILL HOUGER, GENERAL COUNSEL**

Mr. MARANEY. Thank you, Mr. Chairman.

On my left is one of my attorneys, John Allison, and on my right, our other attorney, Bill Houser.

Mr. HANLEY. Good morning, gentlemen.

Mr. ALLISON. Good morning, Mr. Chairman.

Mr. HOUGER. Good morning, Mr. Chairman.

Mr. MARANEY. Mr. Chairman, in relation to the bill you are introducing, let me say we are in favor of any measure or measures which will reduce the severe budget restrictions being placed upon Postal Services field personnel.

We are of the opinion that it is hurting service and it is hurting our contractors.

Therefore, our testimony before this subcommittee and our proposed amendments are aimed at reducing some of those budget restrictions.

I have a short statement, Mr. Chairman. If I may be permitted to read it, I think we can do it pretty rapidly.

Mr. HANLEY. How many pages is your short statement?

Mr. MARANEY. I believe it is four, three and a half.

Mr. HANLEY. All right. Fine. If you will proceed, please.

Mr. MARANEY. The National Star Route Mail Carrier's Association is the national trade association of postal transportation contractors. Nationally, there are between 10,000 and 12,000 postal transportation contractors. Our association is comprised of 48 State associations and a membership of approximately 5,000 contractors.

Historically, routes on which the mail was transported by independent contractors were known as star routes and this has given our association its name.

The facilities of the U.S. Postal Service are linked together by a transportation network extending over millions of miles. With the decline of railroad transportation and the substantial recent cut-backs in round-the-clock services for air transportation, surface transportation by highway contractors has become the most significant aspect of the transportation network.

More than 90 percent of all highway transportation for the Postal Service is conducted by the independent contractors. In addition, in rural areas, a significant portion of the mail is delivered by independent contractors.

The testimony heretofore presented before this committee clearly indicates that the service difficulties which are the present subject of these hearings are, for the most part, related to delays in processing the mail resulting from concentrations at processing points in excess of their capacity, rather than from delays in the intercity movement of mail.

It is obvious that the efficient transportation of mail between postal facilities is essential to quality service. Postal transportation contractors have continued to operate efficiently and to provide reliable, dependable service. The members of the postal transportation contracting industry are a vital link in the mail delivery process and they do everything within their power to expedite the movement of mail, even when this results in increased and perhaps noncompensable costs to the contractor.

Private contractors have been involved in the transportation and delivery of mail on behalf of the Government since the establishment of the Post Office Department.

The statutes in existence just prior to the establishment of the Postal Service relating to the transportation of mail by private contractor trace their history back to the 42d Congress more than 100

years ago. Until the reorganization, the statutes provided the Post Office Department with authority to contract for the transportation and delivery of mail for periods up to 4 years. Contracts were to be let after advertising and since 1948 the Post Office Department was expressly authorized to renew a contract rather than readvertise it.

The Congress also provided the Post Office Department with express authority to increase or decrease the contract rate as a result of changes in conditions subsequent to the contracting.

It is clear from the legislative history of the statutes dealing with postal transportation contracting that the Congress intended the Post Office Department to deal with private transportation contractors in a fair and equitable manner so that the Post Office Department would receive the benefit of their services and the contractors would have substantial incentive to insure the satisfactory nature of the services.

Although the Reorganization Act continued the authority for the Postal Service to deal with postal transportation contractors in much the same manner as in the past, the extensive administrative decentralization has resulted in a substantial change in the Postal Service's approach to transportation contractors.

As a result of the delegation of contracting authority to hundreds of postal officials who have had little or no previous experience with Government contracting, the postal transportation contractors throughout the Nation are reporting increased difficulty in getting fair and efficient administration of their contracts.

The heavy national emphasis on short-run cost savings at the expense of long-run costs has placed intolerable budgetary constraints on field level personnel.

For example, contractors are still encountering intolerable delays in the processing of their requests for cost adjustments. Like all Government contractors, the postal transportation contractor has obligated himself to provide service to the Postal Service beyond those itemized in his contract.

In the past, he could expect a rapid processing of his request for adjustment in compensation resulting from such changes. Today, as a result of budgetary pressures on field level personnel, postal transportation contractors are experiencing average delays of 90 to 148 days in the approval of their request for adjustments, with many applications pending for more than 6 months.

The Postal Service has continued in force one of the more short-sighted policies of the Post Office Department with respect to contract administration.

Unlike nearly all of the Government agencies, postal transportation contractors have limited access to the Postal Service Board of Contract Appeals when the dispute involves an adjustment in compensation for changed conditions. The postal transportation contractor must submit his request for the adjustment to the contracting officer, whose decision under the terms of the contract is final. Informal appeals may be allowed to the regional and headquarters levels but such appeals are a matter of grace rather than a matter of right.

As a consequence of these provisions, the postal transportation contractor either accepts the decision of the contracting officer or

files a lawsuit. Obviously, as a businessman, most interested in preserving his business relationship, postal transportation contractors are very reluctant to sue the Postal Service.

This disregard for the essentials of fair play was not a significant problem when dealing with professional transportation officials who were responsible directly in a line sense to the headquarters.

However, today with the diffusion of authority and the confusion in policy prevalent throughout the Postal Service, postal transportation contractors are being buffeted from side to side and as a consequence many of our better contractors are seriously considering other lines of endeavor as a better utilization of their time and energy and resources.

Prior to 1948 the Post Office Department was required to readvertise contracts at their expiration. By 1948 it was faced with a serious problem of contracting breakdowns. Many contractors were inexperienced in the requirements of dealing with the Post Office Department and in their eagerness to get a contract award they often agreed to transport mail for rates far below what they could afford.

The problem was so severe that in 1948 the Post Office Department requested and received authority from Congress to renew contracts where the service had been adequate at their expiration rather than readvertising them.

After 1948, the Post Office Department followed a policy whereby a contractor who had faithfully executed his contract could expect that he would be offered a renewal of his contract unless the post office planned major changes in its transportation patterns and no longer needed the particular route.

Today, the Postal Service, by a series of restrictive clauses drafted into its master postal transportation contract and by a further series of restrictive regulations, has set up a situation in which many significant medium- and long-haul contracts will probably not last for a complete 4 years.

Further, several postal officials, particularly in the southern region, have jeopardized the current level of dependable service by tacitly establishing arbitrary limits on the rates to be allowed for highway transportation service.

Over 80 percent of all postal transportation contractors engage in no other employment. Unless they are reasonably able to expect the renewal of their contracts, many overhead costs will have to be charged against the life of a single contract and transportation costs will greatly increase.

Mr. Chairman, that concludes my short statement. I will be more than happy to respond to questions.

Mr. HANLEY. Well, thank you very much, Mr. Maraney.

May I ask, when a contract is negotiated and you talk about adjustments, I assume that you provide for a built-in clause with all contracts whereas the rate appropriately should be adjusted because of a situation which—

Mr. MARANEY. Due to changed conditions that are beyond control of the contractor.

Mr. HANLEY. For instance, like the increase in the cost of gasoline, toll charges, and that sort of thing?

Mr. MARANEY. There may be State statutes that increase insurance rates, et cetera.

Mr. HANLEY. So in essence, then, traditionally there has been an escalated clause for this purpose?

Mr. MARANEY. It is a passthrough cost; yes, sir.

Mr. HANLEY. Is that an escalated clause?

Mr. MARANEY. Yes, sir.

Mr. HANLEY. Do you have any information regarding the experiments being conducted whereas they are comparing MVS costs as compared to star route costs?

Mr. MARANEY. It is my understanding there is, or was, a survey that, as far as I know, is still in existence, going on in the State of California.

Officially, there are no results from that survey.

Mr. HANLEY. Does the U.S. Postal Service have a timetable that you are aware of?

Mr. MARANEY. I'm not aware of any timetable; no, sir.

Mr. HANLEY. Now, your testimony suggests that you would have the capital expenditures approved by Congress.

Would this not open the possibility of reinjecting politics into the Postal Service?

Mr. MARANEY. Mr. Chairman, if I can defer to counsel.

Mr. ALLISON. Thank you.

Mr. Chairman, for the record I am John Allison, cocounsel to the National Star Route Mail Carrier's Association.

Mr. HANLEY. Thank you, John.

Mr. ALLISON. Mr. Chairman, what we are suggesting, and this is in our first suggested amendment, is a return of authority to Congress over budgetary expenditures.

We do not believe that would return the Postal Service to the situation existing before 1971, when we do recognize that many political appointments, such as local postmasters and other personnel appointments, became involved in politics and created, as I understand it, a difficult situation for Congress.

I do not think returning control over capital expenditures would do that. I believe the Congress could maintain closer supervision over the way the Postal Service spent its money, and could have some control over directing an allocation of resources in various areas, such as labor, capital equipment, buildings, bulk mail, and that type of thing.

Mr. HANLEY. Well, having said that, then you support the position of the legislation on the burner with regard to the authorization process?

Mr. ALLISON. Mr. Chairman, I haven't had an opportunity to review the specific bill, but we do agree in principle with any measure that would tend to give Congress more control and more supervision over the way the Postal Service spent its money, particularly when it continues to require substantial appropriation from Congress to make up its deficit.

Mr. HANLEY. What is the rapport, your members or the star route carriers in general, with the USPS?

Mr. MARANEY. Mr. Chairman, it varies throughout the country.

In some regions, districts, and SCF's, there is a great deal of rapport. Contractors and contracting officers and the personnel they deal with seem to have little, if any, problems.

However, that is probably a minority of the cases, and the reverse is true throughout the rest of the country, where they have extreme difficulty with the Postal Service contracting officers.

Mr. HANLEY. Then this would be reflected in the quality of service that the operator would provide the USPS, I would assume?

Mr. MARANEY. Yes.

As an example, Mr. Chairman, as you know, the law says that the contracts may be renewed at the existing rate. We find that throughout the country we have many of our contractors that are not sophisticated businessmen, but are good, hard working, decent grass roots people.

When they are called in and asked whether they wish to renew their contract or not, many times the contracting officer will set an arbitrary rate that they want the contract renewed at; and then, what amounts to an economic threat, state to the contractor, "If you don't renew it at this rate we will advertise the contract."

Well, as I say, many of our contractors feel somewhat intimidated and they don't wish to lose their contracts.

So in many cases they renew their contracts, which we think may be uneconomical for them to do so at that point.

Mr. HANLEY. Well, we look upon these 12,000-some operators as representatives of the USPS, and we would hope very much that as such they would project as the dedicated, interested postal representatives.

Are you telling me that generally that is not the case?

Mr. MARANEY. Well, I think that generally they feel that—they feel dedicated, they feel as a part of the Postal Service, but the last 4 years there is a significant slippage in the Postal Service credibility to the contractors, and I say this from hearing from contractors all throughout the country.

In the old days a lot of paperwork wasn't required—you hauled the mail—and if your contracting officer, who you knew probably very well, told you to do something and you would be compensated for it, you got compensated.

Now, there are many cases throughout the country where there is a credibility gap existing between our contractors and the contracting officers.

Mr. HANLEY. Can you tell us the historical reason why star route contractors do not have access to the Board of Appeals?

Mr. MARANEY. I will have to defer to counsel.

I think it has always been written that way in the contract, in the general provisions of the contract.

Mr. HANLEY. Well, why would that deny them access to the board of appeals?

Mr. MARANEY. Bill?

Mr. HOUGER. I believe that historically there have been two different types of cases.

The one type of case is where the service change instituted by the

Postal Service constitutes or requires a change in the rate. Those, Mr. Chairman, are appealable to the board of appeals.

Mr. HANLEY. Is this accommodation utilized at all by star route contractors, the appeals?

Mr. HOUGER. It is utilized. The largest difficulty is that most of the economic changes are not necessarily caused just by service changes.

For example, gas price increases or the significant cost increases of new equipment, repair parts, and labor.

Many of these economic changes, as opposed to service changes, are subject solely to the discretion currently of the contracting officer, and not appealable. That leaves the man in the field that extra power to decide the question of whether or not to grant the rate increase, and it is not appealable to the board of appeals unless it is part of a service change.

Mr. HANLEY I see.

You were going to say something else when I posed that question.

Mr. HOUGER. Historically, I believe that it has been the implicit intent of the Postal Service to prevent any significant amount of appeals to the Board of Contract Appeals.

Mr. HANLEY. I see.

Mr. HOUGER. I can say that because, Mr. Chairman, we have submitted to the Postal Service on several occasions, and specifically November 3, 1972, and again November 15, 1973, requests to change the particular provisions of the rules to allow for more appeals.

Mr. HANLEY I see.

Mr. HOUGER. Those have been denied.

Mr. HANLEY. Do you feel that the Postal Service does not now compare the true cost of alternate modes of transportation?

And with that thought in mind, will you expand on the need for your fifth proposal?

Mr. MARANEY. Mr. Chairman, in cases that I have personally set in on where there has been a dispute—and there have been costs, actual costs, compared with MVS versus contract service, where there were negotiations across the table, and I am speaking generally of one situation in 1971 where it was discussed finally at headquarters level—we had discovered that there were costs left out, there were manhours left out, and there were train stops omitted.

In that particular case, the MVS was predicating their costs on a national average cost basis. In other words, in the area where the service was being proposed and being compared, MVS was using an average, say, gasoline price, where the contractor had to put in his bid, the actual gasoline cost for the area, and actual costs for the area.

Now, in many cases MVS was putting in, as I said, average costs. Well, the average cost could run the costs down.

It has been our experience, and working with people in our association whom we consider experts in this area, that it is extremely difficult ever to compile all the costs, to get all the costs that it is going to cost MVS service in one specific location as compared to the contractor's.

The contractor's costs are there to be examined, they are in front of

the contracting officer or logistics. They know those costs. We find it difficult to come up with all the MVS costs in the relevant—

Mr. HANLEY. With regard to your third proposal requiring award of a contract to lowest responsible bidder, unless the rate per mile is unreasonably high: Could you expand upon that proposal?

Mr. MARANEY. Yes, sir.

We are finding over the last couple of years in a number of cases where a contractor will—contractors will submit bids and the Postal Service rejects all bids as being “excessive.”

Now, we certainly don't deny the Postal Service's right to deny bids for being excessive. However, we think there should be some indication of what is an “excessive” bid, outside of just the contracting officer's opinion.

We are alarmed today because, as I say, contractors are—many contractors feel a credibility gap and are uncertain as to whether they will in fact have a 4 year contract with some assurance that it will be renewed.

If they don't have the assurance that it will be renewed they are going to try to lump their costs into that existing 4 year contract in order to recover.

Contracting officers, in many cases, will compare a bid with existing service or similar service over the same—in the same area, using a cost per mile factor, but Mr. Chairman, there are differences in contract routes. If a contractor was driving through cities and over the mountains, his rate per mile, as they like to call it, is going to be significantly higher than a contractor who is running up and down an interstate highway.

Therefore, we don't think that their criterion, as now set, for rejection of bids are being “excessive” is necessarily the right way to operate just on the basis of the contracting officer's general opinion. John?

Mr. ALLISON. Mr. Chairman, possibly I could add something.

The basic problem relates to what Mr. Maraney talked about when he mentioned the use of an arbitrary rate per mile. We are running into this, several reports of this in the southern region, where there seems to be a general feeling that a contract is expected to be no more than 35 cents a mile.

In some parts of the country with certain types of terrain, of course, the cost of operating the service is more than 35 cents a mile.

Well, what can happen if the Postal Service receives bids that are over some arbitrary limit, say 35 cents per mile; presently they have the right to reject all bids without stating any reason other than just rejection is “in the best interests of the Postal Service.”

When they reject a bid they can then come back to the lowest bidder and try to negotiate his rate down. If he needs the contract badly enough he might take the reduced rate and operate the service for a rate lower than he can economically continue in business, and either go out of business or have service deteriorate.

The other problem that might happen is related, or at least one example of it is related, by one contractor, one of our members who responded to a questionnaire that was sent out earlier this year, and I believe that the committee has one copy of our report.

And this is on page 43, if I may read just two or three sentences: "One contractor in Pennsylvania related a story that illustrates the cost to the Postal Service of shortsighted attempts to save money.

According to that contractor, the contracting officer rejected an offer to renew the transportation contract for an increase of \$600 in the annual rate."

This was a negotiated renewal.

"As a result, the contract was readvertised. The Postal Service ended up paying the successful bidder a rate that was approximately \$5,000 per year higher than the contractor's renewal offer."

So, part of what we are saying, from the standpoint of the Postal Service, is that frequently the overeagerness of some officials in the field to cut costs and save money and in some cases beat the contractor down ends up costing the taxpayers a substantial amount more.

Mr. HANLEY. Thank you.

Mr. Derwinski?

Mr. DERWINSKI. Just one question.

I noticed in your official statement, Skip, you placed special emphasis on what you call "lack of effective rights of appeal."

Now, I presume that this kind of an adjustment could be made in policy rather than by requiring any legislation by Congress?

Mr. MARANEX. Mr. Derwinski, in response to that, I think that applies basically to the whole act itself and the problems that we are having. Most of the language in the Reorganization Act is sufficient. I think our problems generally revolve around administrative policy.

Now, in specific answer to your question, I will let counsel Houger go through, historically, what the position has been on the part of the Postal Service on the right of appeal.

Mr. HOUGER. I am Bill Houger, counsel for the Star Route Association.

On two occasions, as I have mentioned previously, on two occasions—in November of 1972 and then again November 1973—we made specific requests of the Postal Service to increase the rights of appeal, because in using as the basis for that, with the increased decentralization it is necessary to have an ability to appeal to a higher authority that will provide some uniformity throughout the Postal Service, and uniformity among contracts and contractors.

We therefore sought additional and expanded rights of appeal to headquarters.

Most of the rights of appeal are simply informal appeals from the local decisionmaker, the contracting officer, to the region, and then to headquarters. And even now we are experiencing difficulties with policy interpretation, even in the five regions, that differ considerably from what the intention is of headquarters.

This means a contractor who is typically unsophisticated is left to an informal right of appeal through what amounts to a rather political chain to Headquarters in order to solve his problems.

It would be much better to use the board of appeals where that's possible so that the matter can be brought to headquarters and decided on that basis.

Mr. DERWINSKI. But if I read your statement correctly, you in ef-

fect acknowledge that you had a similar problem under the Post Office Department.

You specifically state here that, "The Postal Service continued in force one of the more shortsighted policies of the Post Office Department."

So, if that is the case, I want to get back to my question.

You do suggest amendments, but in fact you could have this problem solved by administrative adjustments if the proper officials in the Postal Service saw things your way?

Mr. HOUGER. That is correct.

Mr. DERWINSKI. Now, how high have you been able to get in the hierarchy of the Postal Service with a request of this kind?

Mr. MARANEY. To the director of logistics.

Mr. DERWINSKI. Did you have any thought that Mr. Klassen himself has any knowledge of your complications?

Mr. HOUGER. I think I can best answer that question by saying that in the Postal Service they have a committee that reviews their regulations and prepares the regulations. Our requests, and most specifically the most recent one, in November, 1973, went to Mr. Jones, Director of Logistics, and from there, as we understand, was transferred over to this contracting committee that reviews these types of things for the purpose of preparing their regulations.

We have received no positive response to the request for expansion of appellate rights to the Board of Contract Appeals of the Postal Service.

Mr. DERWINSKI. By the way, let me say that I take a dim view of any serious effort in Congress to revamp the new Postal Service.

I think it is really unfair to pass judgment after any 3 years of operation, especially with the temptation to go back to many of the procedures that were failing in the past.

It would seem to me that, rather than try to use Congress to force through amendments which get us back into the management of the Postal Service, in which would dictate precise conditions, that you use your proposed amendments and your appearance before this subcommittee as a vehicle to negotiate with proper officials in the Service.

I hope that the postal supervisors, by introducing their bills, and finally getting their agreement out of the Postal Service, dropped the darn bill instead of trying to play with it here before the full committee. Skip, you are an old hand in Washington, and I think you can use your contacts here and your appearance here, the emphasis placed here, to get more attention from the right people in the Service to make these administrative adjustments which they could do rather rapidly if you could convince someone of the practicality.

Mr. MARANEY. Let me say, Mr. Derwinski, that we certainly intend to do that, and as I stated before, we feel that there are provisions in the Reorganization Act that are basically sound.

The problems that we have are coming with the regulatory decisions that are handled down surrounding the provisions in the law,

And as you said, we certainly intend—we keep—we can keep an

ongoing discussion going with the Postal Service staff and in some cases it is productive, and in others we seem to be talking through deaf ears.

But we certainly intend to follow your advise, yes, sir.

Mr. DERWINSKI. Mr. Chairman, may I point out that with all the commentary I have heard from members on how to reform the Postal Service and many, you know, are good Monday morning quarterbacks, in view of the latest news from Italy I have yet to hear anyone suggest we bring over the Postmaster General of Italy to run the U.S. Postal Service.

In comparison, we are looking very good here.

Thank you. Thank you, Mr. Chairman.

Mr. HANLEY. Thank you, Mr. Derwinski.

Mr. Hinshaw?

Mr. HINSHAW. No questions, Mr. Chairman.

Mr. HANLEY. Mr. Maraney, upon what do you base your opinion that one fourth of the annual contract rate would be just compensation for cancellation of a contract?

Mr. MARANEY. John? I defer to counsel.

Mr. ALLISON. Mr. Chairman, possibly I could answer that.

We felt that 90 days would give a contractor more time to dispose of his equipment, find alternate uses for his employees, so forth, than the present situation, which allows them only 30 days.

And, as you probably know, under the present situation the contract can be terminated for "the convenience of the Postal Service" upon payment of one month's compensation.

We feel that is extremely inadequate because typically contractors purchase trucks and trailer and other capital equipment and it would be more equitable if we had 90 days rather than 30 days to try and find alternate uses for it.

Mr. HANLEY. You state that you have a membership of about 5,000 contractors.

Can you tell us, for instance, since the inception of the USPS, how many of your member contractors have departed the reservation or no longer evidence interest in contracts?

Mr. MARANEY. That would be extremely difficult to give you an accurate answer. There are many contractors who have been transporting mail for 30, 40 years who ultimately have retired.

There are other contractors who have had one or two contracts and they were consolidated with other contractors and they are no longer operating the business.

There are other contractors who have died, and their routes have been advertised.

Mr. HANLEY. What I am getting at is, for instance, do you have members contact you relating their disenchantment because of what they deem as an unfair contractual arrangement no longer wanting to provide their service, and involuntarily are forced out? Does that happen very frequently?

Mr. MARANEY. Yes, it is happening quite frequently.

Mr. HANLEY. Do you have any record of the number over a course of a year?

Mr. MARANEY. I don't have. We sent out a questionnaire in late

February or March to which we had 11 or 12 percent response and one of the Arkansas contractors in that questionnaire stated that he "could not tolerate further dealings with the Postal Service."

Now, there are many things that I hear, many verbal complaints that "If this continues we will just be getting out of the business."

Mr. HANLEY. Well, then, may I ask, in connection with another aspect of this, that is your second proposal, if the contractor's request is turned down the contractor would not still be entitled to interest. Isn't this correct; relating to your second proposal?

Mr. MARANEY. On the adjustment, you mean the delay in adjustment?

Mr. HANLEY. Yes.

Mr. MARANEY. He is not entitled to interest now.

Mr. HANLEY. That is right.

Mr. MARANEY. But we feel with these intolerable delays we have got many contractors who don't operate, if at all, on a profit margin who are finding themselves, as I stated before, going to the bank to borrow money to operate who have not sufficient cash flow and who wait anywhere from 4 months to a year to get an adjustment. They now have to pay the loan back to the bank and interest on that loan. What we are proposing here basically is an attempt to get the Postal Service logistics to wake up and look at the problems these little guys are having and, you know, it is costing them money to apply for an adjustment to their contract, which is a pass-through cost.

Mr. HANLEY. I see. Mr. Johnson?

Mr. JOHNSON. I have no questions.

Mr. HANLEY. Mr. Derwinski?

Mr. DERWINSKI. No further questions.

Mr. HANLEY. Mr. Hinshaw?

Mr. HINSHAW. No questions.

Mr. HANLEY. Gentlemen, again our appreciation for your appearance here this morning and we are most grateful for your time and interest and effort.

Mr. MARANEY. Thank you, Mr. Chairman.

Mr. ALLISON. Thank you, Mr. Chairman.

Mr. HOUGER. Thank you sir.

Mr. HANLEY. I am going to ask unanimous consent that the appendages attached to the statement be placed in the record.

[The attachments follow:]

SUMMARY AND PROPOSED AMENDMENTS SUBMITTED BY NATIONAL STAR ROUTE MAIL CARRIER'S ASSOCIATION.

The postal transportation contracting industry supports the basic aims of the Postal Reorganization Act. However, we believe that the intent of the Act has been frustrated by some of the policies adopted and implemented by Postal Service officials, particularly in field offices. To correct these problems, we have requested nine amendments to the Postal Reorganization Act. The proposed amendments are addressed to the following problems:

(1) The first proposal would return control over capital expenditures to Congress.

(2) The second proposal would simplify the cost adjustment procedure and provide contractors with an effective remedy if their applications for cost adjustments are not processed in a timely manner.

(3) The third proposal would protect quality service and eliminate unreasonable rate setting by requiring postal officials to accept the lowest responsible bid, so long as the amount of the bid is reasonable.

(4) The fourth proposal would promote equitable treatment for contractors by requiring contract amendments to be agreed in advance.

(5) The fifth proposal would require the Postal Service to economize by comparing the true costs of alternate modes of transportation before selecting a particular mode.

(6) The sixth proposal would provide contractors with equitable indemnity if a contract is terminated for convenience of the Postal Service.

(7) The seventh proposal would provide contractors with an effective and just remedy of appeal that is consistent with the standard disputes clause in government contracts.

(8) The eighth proposal would expedite the fair settlement of claims against the Postal Service for damage to a contractor's vehicles and equipment.

(9) The ninth proposal would update the grandfather clause provided in the original act.

Our specific proposals are set forth below, together with a brief explanation of each proposal.

The National Star Route Mail Carrier's Association respectfully submits nine proposed amendments for consideration by the Committee. Each proposed amendment is set forth separately and followed by an explanatory paragraph.

CAPITAL EXPENDITURES

We request that 39 U.S.C. 2003 be amended by adding the following subparagraph (f):

(f) Notwithstanding any other provision in this title, for a period of four years from the effective date of this subsection, the Postal Service shall neither purchase nor incur any obligation to purchase capital facilities or equipment without first obtaining a special appropriation from Congress.

Discussion

Recently, the Postal Service has been severely criticized for wasteful expenditures of public funds for capital facilities and equipment. At the same time, Congressional appropriations to cover the operating loss of the Postal Service have continued to grow. To the extent that the taxpayers are required to subsidize the Postal Service, we believe their representatives in Congress should maintain control over the manner in which the subsidy is spent.

COST ADJUSTMENTS

We request that 39 U.S.C. §5005(b)(1) be amended to read as follows:

(b)(1) Contracts for the transportation of mail procured under subsection (a)(4) of this section shall be for periods not in excess of 4 years (or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years) and shall be entered into only after advertising a sufficient time previously for proposals. The Postal Service, shall upon application by the contractor or subcontractor adjust the compensation allowed under the contract for increased or decreased costs resulting from changed conditions beyond the control of the contractor or subcontractor occurring during the term of the contract. On any application for an adjustment in compensation resulting from increased costs, the Postal Service shall render a final decision within fifty-six calendar days of the filing of such application. Failure of the Postal Service to render a final decision in accordance with the preceding sentence shall entitle the contractor or subcontractor to recover interest, from the end of such fifty-six day period until the final decision is made, at the rate of eight percent per annum on the requested compensation increase. The interest provided by this subsection shall be paid in a lump sum payment at the end of the first accounting period following the date of the final decision.

Discussion

The law presently contemplates adjustments in the compensation of highway transportation contractors to cover increased costs resulting from changed con-

ditions during the contract term. As the Comptroller General of the United States observed in Report B-141203, dated May 31, 1972, to the Honorable David N. Henderson, Member of Congress:

"Hence, it is our view that the intent of Congress is to give the Postal Service, under the Postal Reorganization Act, the same authority with respect to extending star route contracts and adjusting the compensation thereunder as the former Post Office Department had under the Act of June 19, 1948."

It was undoubtedly felt that a procedure to adjust compensation during the contract term would facilitate closer bidding of contracts, and thereby save the Postal Service money.

The Postal Service has implemented a procedure to process cost adjustments. However, two serious problems currently exist. First, contractors experience unreasonable delays in obtaining a final decision from the Postal Service on requests for cost adjustments. The National Star Route Mail Carrier's Association recently completed a survey of its membership. The results of the survey indicate that, during the preceding three year period, the average time for the Postal Service to process cost adjustments varied from 90 days in the Western Region to 135 days in the Southern Region. A large number of cost adjustment applications are not being resolved by the Postal Service for as long as 6 months to one year from the date the application is filed. This delay is unconscionable, since a contractor is typically required to borrow working capital to pay increased costs while his application for a cost adjustment is being processed.

The second problem arises from the discretionary nature of the cost adjustment procedure under existing law. The Postal Service has been using a series of extremely complicated regulations for processing cost adjustments. The complex nature of these regulations adds to the delay in processing cost adjustment requests. In addition, adjustment applications for many legitimate items of increased cost, such as wage increases beyond the contractor's control, are frequently denied, particularly during the first year of a contract term.

We believe these problems can be avoided by making the adjustment procedure mandatory, and requiring the Postal Service to process cost adjustment applications to a final decision within two postal accounting periods. If the Postal Service does not process an application within the 56 day period, the contractor should recover interest, to compensate him in part for his need to borrow working capital.

REJECTION OF BIDS

We request that 39 U.S.C. § 5005(b) be amended by adding the following subsection (4):

(4) If the Postal Service advertises for the transportation of mail under subsection (b)(1) of this section, it shall award a contract to the lowest responsible bidder whose bid is responsive, unless the annualized rate per mile in the bid is unreasonably high when compared to the annualized rate per mile in any contract providing for substantially the same service at the time of advertisement.

Discussion

Several instances, most frequently in the Southern Region, have been reported in which postal officials establish an arbitrary maximum rate per mile for evaluation of bids. If all bids exceed that maximum, they are frequently rejected in an effort to negotiate a lower rate with individual contractors. In too many cases, contractors have felt economically compelled to accept a reduction in their bid in order to stay in business. When the contractor finds he is unable to operate the route at a cut rate, he may be forced to operate his route on a marginal basis or even go out of business. As a result, service to postal patrons deteriorates. We believe the Postal Service should be allowed to reject competitive bids only if they are unreasonably high, so that free and open competition, consistent with good performance, may be assured.

CONTRACT AMENDMENTS

We request that 39 U.S.C. § 5005(b) be amended by adding the following subparagraph (5):

(5) A contract under subsection (a)(4) of this section may be amended to change the service required by the contract only by agreement between the Postal Service and the contractor or subcontractor.

Discussion

Contractors provide the Postal Service with flexibility to accommodate changes in mail flow. However, to protect a contractor's investment in an existing contract, we believe that amendments to the contract should require prior agreement between the Postal Service and the contractor.

COST EVALUATION

We request that 39 U.S.C. §5005 (c) be amended to read as follows:

(c) The Postal Service, in determining whether to obtain transportation of mail by carrier or person under subsection (a) (1) of this section, by contract under subsection (a) (4) of this section, or by Government motor vehicle, shall use the mode of transportation which adequately serves the public interest, primary consideration being given to the cost of the transportation service under each mode. *For purposes of comparing the cost of transportation under each mode, the true cost of each mode shall be evaluated by considering all costs related to the particular transportation including, but not limited to, capital equipment and spare parts, buildings and other facilities, direct and supervisory labor, fringe benefits, fuel, maintenance, tolls, administration and general overhead, and taxes incurred or foregone.*

Discussion

In a letter to the Postmaster General on June 29, 1972, the United States General Accounting Office recommended greater use of star route contracts to save money:

"Our analysis of Postal transportation activities in sparsely populated areas throughout the United States showed that substantial savings could have been achieved by replacing government rural delivery service with contract star route service. By comparison, the cost of box delivery star routes during our survey ranged from 20 percent to 60 percent less than the cost of government rural delivery service."

We believe the same conclusion could be expressed about most forms of highway transportation service throughout the country. In a time of rising public concern over increased Postal Service expenditures of questionable efficiency, we suggest that accurate cost evaluation of various alternative modes of transportation service be made mandatory.

CONTRACT TERMINATION FOR CONVENIENCE

We request that 39 U.S.C. §5005 be amended by adding the following subsection (d):

(d) A contract under subsection (a) (4) of this section may be terminated by the Postal Service for reasons other than contractor default upon payment of indemnity. For purposes of this subsection (d): (1) "Default" refers to default or breach of contract by the contractor as those terms are defined in the applicable contract; and (2) Notwithstanding any contract provision to the contrary, "indemnity" shall be equal to one-quarter of the annualized contract rate at the time of termination.

Discussion

The general provisions of Postal Service highway transportation contracts allow termination for convenience of the Postal Service upon payment to the contractor of an indemnity equal to one-twelfth of the annual contract rate. Clearly, termination for convenience of the Postal Service causes loss to the contractor substantially in excess of one month's pay. A more reasonable indemnity would be one-quarter of the annual contract rate. This would allow the contractor approximately ninety days to find alternate uses for his vehicles, capital equipment, and employees.

We request that 39 U.S.C. §5005 be amended by adding the following subsection (e):

(e) Any person holding a contract for the transportation of mail under subsection (a) (4) of this section shall have the right, notwithstanding any provision in the contract, to appeal any decision of the contracting officer concerning a question of fact under the contract to the Postal Service Board of Contract Appeals, in accordance with rules of procedure duly adopted by said Board. Nothing in this subsection shall be construed to limit the right of any

person to seek judicial review or other relief in accordance with 39 U.S.C. §409, or any other provision of law.

Discussion

The general provisions of highway transportation contracts severely limit the jurisdiction of the Postal Service Board of Contract Appeals, particularly with respect to denials of cost adjustment applications. As a general rule, the Board of Appeals will accept jurisdiction of claims involving cost adjustments only to the extent that increased costs resulted from governmental action. Thus, with respect to many cost increases in items such as increased wages bargained with employees or increased repair costs, the contractor presently has no remedy in the Board of Appeals. Because most appeals from adverse decisions on applications for cost adjustment involve several items, it is typically necessary for the contractor to bring two actions. One action involves an appeal to the Board of Appeals on a portion of his application. After that appeal is resolved, it is then necessary for him to seek judicial relief with respect to the remaining items. This procedure becomes so time consuming and expensive that many contractors, particularly on smaller routes, feel they have no choice but to accept the contracting officer's decision. To eliminate the need for successive appeal, and to provide an effective remedy for contractors who feel their cost adjustment applications have been unjustly denied, we believe the Board of Appeals should be vested with broader jurisdiction.

DAMAGE CLAIMS

We request that Title 39, U.S.C., be amended by adding the following section 5508:

§5008. Damage Claims

If vehicles or equipment owned by any person, whether an individual or private business concern, are damaged while in the custody or under the control of the Postal Service or its employees, the Postal Service shall be liable for such damage unless it can sustain the burden of proving that such damage was caused by active negligence of the owner or his employee.

Discussion

Vehicles and equipment furnished by contractors are frequently damaged while in the custody or under the control of the Postal Service and its employees. When such damage occurs, it is frequently impossible for the contractor to find out exactly what caused the damage. Many contractors are not presently being reimbursed for this damage in a timely manner, as a result of administrative delays or Postal Service reluctance to admit fault. Even though contractors may be able to obtain satisfaction in court under the legal doctrine of *res ipsa loquitur*, many contractors are unwilling to jeopardize their business relationship by filing suit against the Postal Service, or unable to afford the delay involved in a court case.

We believe a clear statutory provision will alleviate the current problems by promoting the speedy resolution of damage claims in a fair manner.

STAR ROUTE CERTIFICATION

We request that 39 U.S.C. §§ 5215 (a) and 5215 (b) be amended to read as follows:

§ 5215. Star Route Certification

(a) Any person who is a contractor under a star route, mail messenger, or contract motor vehicle service contract (or successor in interest to any such person), shall, upon application to the Commission for the territory within which such contractor operates be issued a certificate of public convenience and necessity as a motor carrier for the transportation of mail by the Commission without the Commission's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

(b) Applications of persons who are not contractors shall be decided in accordance with applicable Commission procedure.

Discussion

Section 5215 of the Postal Reorganization Act currently provides grandfather rights to contractors existing on the effective date of the Act. Because

the Interstate Commerce Commission has expressed no interest in regulating the activities of star route contractors, those grandfather rights have rarely been exercised. At sometime in the future, however, it may be necessary and desirable for more contractors to exercise such rights. When that occurs, many contractors will have different routes than they had when the Postal Reorganization Act became effective. Further, since the Postal Reorganization Act some contractors have gone out of business. Therefore we request a minor change in the grandfather clause so that existing contractors, at the time of application, may obtain the protection intended by Congress.

Mr. HANLEY. The next witnesses are the Postal Rate Commissioners, Mr. Fred B. Rhodes, chairman, and I understand Mr. Rhodes is accompanied by Nathan A. Baily, Frank P. Saponaro, and Carlos C. Villarreal, and if there are others, for the purpose of the record, will you introduce them, Mr. Rhodes?

Mr. RHODES. Mr. Chairman, I'd like to introduce Mr. Lloyd Dietrich, our General Counsel, who will be at the table with us.

Mr. HANLEY. Fine. Well, Mr. Rhodes and gentlemen, we are glad to have you with us and in recognition of the very, very important function you play in this overall arena we are very much interested in what you have to say this morning.

STATEMENT OF FRED RHODES, CHAIRMAN OF THE POSTAL RATE COMMISSION, ACCOMPANIED BY NATHAN A. BAILY, FRANK P. SAPONARO, CARLOS C. VILLARREAL, AND LLOYD DIETRICH

Mr. RHODES. Thank you, Mr. Chairman.

As we have requested before, we would like to once again ask the indulgence of the committee not to inquire into matters that are pending before the Commission in the cases that we are now hearing and also our code of ethics and conduct requires that we do not discuss matters that are apt to become in issue before the Commission.

Mr. HANLEY. Well, if a question should be ventured that could jeopardize a court position please let it be known.

Mr. RHODES. Thank you, Mr. Chairman.

Otherwise, of course, we welcome any inquiries which you may have or comments which you and the members of the committee would care to make, Mr. Chairman, with regard to any feature of the work of the Postal Rate Commission.

In introducing H.R. 15511, Mr. Chairman, you expressed concern over several features of the Commission and its operations and particularly you went into the length of time that it takes the Commission to reach its decisions and that in some areas the Postal Reorganization Act appears to leave the Commission without full independence of the Postal Service.

Before turning to the specific legislative proposal let me make some general comments with regard to concerns which you have expressed, Mr. Chairman.

We recently testified before this committee, as a matter of fact on January 30, in considerable detail with regard to problems of expediting our proceedings and I have attached as an appendix some information from that appearance and also I'd like to include, if I might, at this point in time a table which would show the status of interrogatories of the parties that have appeared before us, which

gives a flavor. I think, for the problems relating to the length of time which the Commission takes.

Mr. HANLEY. Without objection, the items referred to will appear in the record at the end of your testimony.

Mr. RHODES. A major problem creating the delay in our proceedings is the difficulty of obtaining necessary information on operations, costs, and revenues of the Postal Service. The prompt hearing of our cases has been hampered at times by a lack of regularized and cumulative cost and revenue data, and these data deficiencies have resulted in excessive delays in the cases to permit the extensive use of discovery procedures.

Now, I am pleased to note that the Postal Service, in its testimony on record with this committee as of yesterday, indicates a knowledge on their part of the deficiencies in the cost data.

On June 20 we wrote a letter to the Postmaster General seeking his cooperation in a development of a format for periodic reports to the Commission by the Service and in the establishment of a standard system of accounts which would assist the Commission in fulfilling its statutory responsibilities. In connection with this effort our chief accountant will study the Service's classification of accounts, its management information system, its library of computer programs and its other cost and revenue accounting practices. We are hopeful that these studies will contribute significantly to the development of data needed to enable the Commission to process rate and classification requests more expeditiously.

In our mail classification proceeding, Docket No. MC73-1, the Commission has recently taken steps to insure that the proceeding is completed as promptly as possible without sacrificing the development of a full evidentiary record. As we advised the committee in our last appearance, the Commission, in August 1973, entered into a contract with A. D. Little to prepare a basic study of methods of testing and analyzing a wide range of alternative mail classification designs. The study was completed and released to the public in April 1974 and, at least partially on the basis of the recommendations in the study, the Postal Service proposed to undertake extensive additional studies on economic and technological aspects of basic mail classification reform. The Postal Service proposed that proceedings in the classification case be suspended for 31 months to permit completion of these studies. The presiding administrative law judge decided to suspend proceedings until December 31, 1974, to permit the program of studies to go forward.

On review of the judge's decision, the Commission decided to follow a different approach. The Commission agreed that extensive studies on basic classification reform appeared necessary. Accordingly, the Commission ordered the preliminary proposals for studies to be refined and developed during a period of approximately 90 days, after which there would be further decisions on the studies to be undertaken and the procedures to be followed.

The Commission further decided to divide the classification case into three phases, in which different procedures will be followed. Under this approach, the need for prolonged procedures on basic reform will not delay prompt consideration of proposals for limited

changes in the existing classification schedule. In two of the three phases the Commission will consider proposals for adoption of the existing schedule and limited changes therein. We anticipate that these phases will be completed before the third phase, which will consider the issue of basic reform.

We are also pleased to note that our rate case, docket No. R74-1, is moving forward rapidly. In that proceeding the Postal Service has requested approval of rate increases designed to generate \$2 billion in additional revenues.

On May 16, the parties to the proceeding, including many trade associations that represent thousands of members, submitted their direct evidentiary presentations and their rebuttal to the Service's rate proposals. Thus far in the proceeding, some 22 parties have circulated pretrial submissions by 42 witnesses, who sponsor 1,300 pages of direct and rebuttal testimony and thousands of pages of exhibits, appendices, attachments and schedules. Pursant to the innovative procedural directives of Judge Wenner, the parties have submitted their written cross-examination of Postal Service witnesses and filed their motions for oral cross-examination. Hearings in the case commenced on June 27 and will continue through the summer at an intensive pace.

In concluding my general remarks, I would like to comment briefly on Chairman Hanley's concern over the Commission's independence.

The Commission believes that our independence from the Postal Service is of critical importance. Because of public confusion it needs to be emphasized that the Commission is not part of the U.S. Postal Service and its decisions are not dictated in any manner by the Postmaster General or the Board of Governors. As the Committee will recall, the Postal Reorganization Act was designed to take the whole question of mail rates and classification out of the political process, and to have these matters determined on the basis of an evidentiary record by an independent commission, with members selected on the basis of professional qualifications. Under the scheme of the act, it is the Commission which furnishes the only formal opportunity for users of the mails and other members of the public (1) to present their views on postal rates and classification, (2) to question and evaluate the data submitted by the Service and (3) to offer rebuttal evidence. Given the adversary nature of our proceedings, it is vital to the success of regulation under the act that we render fully independent decisions.

The Commission does not believe that our limited statutory ties with the Governors of the Postal Service have affected our independence in any way. As I will discuss more fully later, the Governors' power to review the Commission's budget and decisions is circumscribed by law. In actual practice to date, the Governors, in the exercise of these powers, have not interfered with the Commission's statutory duties, and we have never been influenced in the conduct of our duties by the existence of the Governors' review powers. The committee can be assured that the existence of the Governors' review powers has not prevented the Commission from functioning with complete independence.

Turning to the specifics of H.R. 15511, the bill contains a number of amendments designed to further the independence of the Commission. The Commission generally supports these proposals. Although, as I have stated, we do not believe that the existing law has prevented the Commission from acting with full independence, the law does contain a number of provisions which raise the appearance of a lack of independence, and which could create problems in the future.

There are four proposed amendments designed to strengthen the Commission and further its independence. The amendments cover (1) finality of Commission decisions, (2) separation of the Commission's budget from the Postal Service's control, (3) Senate confirmation for Commissioners, and (4) designation of a vice chairman.

(1) As to the finality of Commission Decisions: Under Chapter 36 of the Postal Reorganization Act the Commission renders not a final decision but a recommended decision which is subject to review by the Governors of the Postal Service. However, paragraph 3625 imposes constraints on the Governors' power to modify Commission decisions, and, as a practical matter, their power to revise Commission opinions is narrow.

H.R. 15511 would eliminate the Governors' review of Commission decisions and authorize the Commission to issue final decisions. We support this amendment. Generally speaking, independent regulatory agencies, such as the Commission, render final decisions, and there is no reason for the Commission to be afforded less power, particularly when appointments to the Commission are governed by a requirement, not in the statutes of other agencies, that Commissioners must be chosen on the basis of their "professional qualifications." Additionally, the elimination of review by the Governors would not leave the Commission with wholly unfettered discretion. Importantly, the decision of the Commission would be subject to review by the courts, in the same manner as decisions of other regulatory agencies.

(2) In regard to independence of the Commission's Budget: Under present provisions of the act, section 3604(c), the Commission submits a budget of its expenses to the Governors of the Postal Service. The Governors may, by a unanimous written decision, adjust the total amount of money requested in the budget, but may not adjust any individual item.

In the brief life span of the Commission, we have not experienced any difficulty under the present system. However, we recognize that the present system has raised concern because of its unusual feature of a regulatory agency submitting its budget to the regulated organization. If the Congress in its wisdom decides to change the existing system, the ideal budget method, from the Commission's standpoint, would be the method proposed in early drafts of S. 411. Under this proposal a statement of expenses would be submitted to the Postal Service by the Commission and would automatically be paid from the Postal Service Fund upon presentation of vouchers signed by the chairman of the Commission. The adjustment power which the Governors now retain over the total budget of this Commission, an independent agency, would be removed.

(3) With regard to Senate confirmation of Commissioners: The

Postal Reorganization Act presently contains no requirement that the appointment of Postal Rate Commissioners be subject to confirmation by the United States Senate. We are aware that the governing statutes of most regulatory agencies provide that their members be appointed by the President with the advice and consent of the Senate. A provision calling for Senate approval would, of course, enable the Senate to review the professional qualifications of members of the Commission.

The Commission regards the suggested change in the method of appointing Commissioners as raising a matter peculiarly within the expertise and informed judgment of Congress.

(4) With regard to the designation of a vice chairman: The Postal Reorganization Act does not presently provide for designation of a Vice Chairman. The Commission believes that it has statutory authority to select a vice chairman under paragraph 3603 of the act which authorizes the Commission to take actions "necessary and proper" to carry out its functions. In this connection we note that a number of regulatory agencies, such as the FCC, FTC, and ICC, have acted under similar general statutory provisions to select a vice chairman. Other agencies, such as the Civil Aeronautics Board and Federal Power Commission have statutory provisions requiring designation of a vice chairman. The Commission has never found it necessary to select a vice chairman. However, we have no objection to statutory designation of a vice chairman.

One other provision of H.R. 15511 is of particular interest to the Commission. The bill would modify paragraph 3641 of the act to provide that the Postal Service may not adopt temporary rates or classifications until 180 days after they have submitted a request for permanent rates or classifications to the Commission. The present requirement is for 90 days.

In proposing this amendment, Mr. Chairman, you recognized that "under the Administrative Procedure Act it is virtually impossible for the Commission to finish its proceedings within 90 days." We are in complete agreement with the chairman's conclusion on this matter. The Administrative Procedure Act requires that the Commission hold a full-dress evidentiary hearing before it reaches its decision, and at the hearing all interested parties have the right to present evidence and cross-examine the expert witnesses of other parties. Given the complex nature of postal rates and the underlying economic and technological data, and the current absence of an adequate data base, Administrative Procedure Act procedures simply cannot be completed in 90 days.

Moreover, if our cases continue to be as complex as they have been, and if the data collection systems of the Postal Service continue in their present form, I do not anticipate that our cases can be completed in 180 days. The present lack of a substantial and uniform data base means that proceedings will inevitably be delayed while the parties explore the data underlying the Postal Service's recommendations by written or oral cross-examination. The Service and the Commission are working to improve the data situation but vast improvements in data collection are essential, if we are to accelerate our current pace or even come close to concluding cases within 180 days.

As a refinement of the amendment on temporary rates and classifications, we recommend that the Postal Service be required to give 45 days' notice of its intention to file a request for a Commission decision on rate or classification changes. This notice will enable the Commission and other interested persons to begin "gearing up" for a proceeding, and should shorten the time required to decide the case after the application has been filed.

The Commission believes that there are a number of areas in which additional legislation could serve to increase the efficiency and effectiveness or the Commission's operations. If the committee is interested in any of these proposals, we would be glad to provide specific language for the Committee's consideration.

First, we believe that it would be desirable to clarify that the Commission has certain powers generally held by regulatory agencies, specifically the power to issue subpoenas and the power to require the Postal Service to submit periodic reports and to adopt a system of regulatory accounting. The Commission believes that the present law grants us these powers. However, there are indications that the Postal Service does not agree, and clarifying legislation would help ensure that the Commission could exercise these powers without substantial delay.

We also consider it desirable that the Commission be given authority to participate in litigation arising out of mail rate and classification proceedings. Under existing law the Department of Justice controls court litigation arising from these cases and determines the representation which will be made to the court. The Commission believes that it would be desirable for it to have authority to apprise the court directly of its own views, especially in cases where there is disagreement between the Commission and the Governors of the Postal Service.

We further recommend legislation to remove any possible question as to whether the Commission has jurisdiction, for ratemaking purposes, to inquire into (1) The total cost and revenue estimates of the Postal Service, (2) The phasing schedules used for certain rates, (3) Whether there should be an adjustment in rates due to failure of Congressional appropriations, (4) The quality of postal service, and (5) The honesty, efficiency and economy of postal management.

In our first rate case we considered these questions in great detail and concluded that we had jurisdiction. The Governors disagreed but did not seek judicial resolution of the disagreement. The first drafts of S. 411 would have made it clear that the Commission's assertion of jurisdiction was correct. However, these clarifying provisions were subsequently deleted when S. 411 was limited to extending the phasing periods.

Finally, the Commission recommends legislation to make it clear that the Commission has jurisdiction over special services, such as registry of mail and special delivery, and experimental services. Early drafts of S. 411 included a detailed regulatory scheme for the Commission to assert jurisdiction over these matters with special procedures designed to ensure that there would be no basic conflict between regulation by the Commission and the flexibility of postal management to innovate and make minor changes in service. These

provisions were dropped from S. 411 when it was decided to limit the bill to adjustment of the phasing period.

Mr. Chairman, this concludes my prepared remarks. Again let me thank you on behalf of each of the Commissioners for this opportunity to be here this morning.

We appreciate this opportunity now to respond to your questions. [The information attached to the preceding statement follows:]

(Excerpts From Statement of Chairman Rhodes Before the Subcommittee on Postal Service of the House Committee on Post Office and Civil Service, January 30, 1974.)

NATURE OF COMMISSION PROCEEDINGS

We believe it extremely important, if the Commission is to carry out its regulatory functions in a manner that ensures public confidence, that the Congress and the public understand why major regulatory proceedings require a substantial period of time to complete. By any reasonable standard, however, we believe our cases are heard and decided as speedily as any comparable regulatory proceedings.

Complexity of issues before commission

First, the issues which the Commission decides are highly complex and technical. For example, the pending classification case involves a complete review and reevaluation of a mail classification schedule of 40 odd classes and subclasses which came into being over a period of almost 200 years. The need for a comprehensive review of the mail classification schedule was recognized by Congress in Section 3623 of the Postal Reorganization Act which directed the Postal Service, within two years after the effective date of the Act, to request the Commission "to make a recommended decision on establishing a mail classification schedule." Clearly, far-ranging postal reform—such as simplification of the present mail classification schedule—cannot be effected without intensive study by the Service, and by the mailers affected by potential changes in mail classification.

Similarly, the current rate case involves the establishment of a rate schedule for a service organization with a claimed revenue need of \$12 billion. When one adds to the normal difficulties encountered in establishing rates, the inadequacy of the Postal Service's data collection and accounting methodologies which so concerned the Court of Appeals in the Association of American Publishers case, the complexities of decision-making are increased enormously. The Postal Service itself recognizes the deficiencies in data and accounting, although the Service may differ with other parties to the cases as to the time-frame in which it is necessary to remedy the deficiencies. In a recent report to the Administrative Law Judge in the Classification case, the Postal Service stated that it is firmly committed to improving its costing system, but added that it was "unable to state precisely how long it would take to institute an improved costing system, partly because we do not yet know all the salient factors which, in fact, influence cost variation."

Procedural due process requirement

A second factor contributing to the lengthiness of the Postal Rate Commission proceedings are the legal requirements designed to afford due process of law to all persons substantially affected by postal rates and classifications. Our proceedings are governed by the Postal Reorganization Act and the Administrative Procedure Act; these statutes require no less than full-scale evidentiary hearings in all proceedings.

At the hearings, interested persons have a right to present evidence and to cross-examine expert witnesses appearing on behalf of other parties. In view of the complex nature of our problems and the large number of persons affected by postal rates, our evidentiary hearings are necessarily quite prolonged.

Some statistics from our first rate case illustrate this point. In that case there were 56 intervenors appearing at the hearings. Together they presented 98 witnesses sponsoring 245 exhibits, some of which totaled 200 pages or more. The record of the hearing totaled more than 13,000 pages of transcript. It is

certainly safe to assume that the second rate case and the classification case will be comparable in scope to the first rate case.

Expedition and comprehensive record development are interrelated goals

Expedition of any regulatory proceeding is a formidable task. It is especially difficult because expedition is not the only objective. Our statutory mandate requires us to consider not only expedition, but also the objectives of developing a full record, and assuring due process to all parties. Expediting a proceeding involves coordination of the efforts of more than 50 parties and their efforts are often interdependent.

For example, intervenors in our cases claim, often with justification, that they are unable to file their direct evidence until they have received clarification of the Postal Service's evidence through the Postal Service's answers to interrogatories. In other words, expedition depends, in the first instance, on the completeness and clarity of the evidence the Postal Service files with a request. An added difficulty is that the Postal Service is virtually the sole source of raw statistical information on postal costs, and there is no postal data base available to parties seeking to present evidence different from that submitted by the Service.

If the Postal Service's evidence is less than clear, or if parties need additional information for evidence they wish to present, the Postal Service is flooded with interrogatories seeking clarification of its filing. When this flooding occurs, parts of the case must be delayed until interrogatories have been answered.

In our opinion there is much that all participants can do to shorten the length of our proceedings. They can reduce, for example, the time taken to prepare their initial interrogatories to the Postal Service when a new case is begun. Also, their evidence can, and should, be more expeditiously prepared. Further detail on the interrogatories served in our cases, and the time span needed to prepare and answer them, is found in the attachment to this statement. . . .

The Commission believes that its first rate case was promptly decided, particularly in view of the fact that the proceeding was delayed for six weeks at the outset while the parties briefed, and the Commission decided, a number of threshold issues of jurisdiction. This view is supported by the following comment at the oral argument in the first rate case by a past President of the American Bar Association, Mr. Bernard Segal, who declared during oral argument before the Commission that "I was as critical as anyone at the beginning of this proceeding about some of the announced procedures. I concede, as I have to counsel in this proceeding and my own associates, that I was wrong. I say to this Commission, and it is my firm judgment based on 30 years of practice before administrative boards, that I have never seen a proceeding expedited like this one."

Another approach to measuring the promptness of our decision-rendering process is to compare our first rate case to major prototype rate cases decided by other federal regulatory agencies. Many cases at other agencies have taken considerably longer than the 18 months required for the Commission's decision in its first rate case. We acknowledge, of course, that these comparisons cannot be carried too far, since there are many differences between the work of the various agencies. Nonetheless, we believe it instructive to realize that other agencies have found that substantial time is needed to resolve major problems of economic regulation on the basis of an evidentiary record.

RECOMMENDATIONS FOR TECHNICAL CHANGES IN H.R. 15511

Section 1

Section 1 of H.R. 15511 would amend § 2401 (b) of title 39 to provide that public service appropriations shall not be used to reduce rates for parcel post or fourth-class catalogs. We find this section somewhat unclear and believe that it would be potentially difficult to administer, as drafted. Read literally, the section appears to say that the rates in question shall be set at the level which would exist if there were no appropriations. But the amendment could also be read as requiring only that the rates not be reduced below their present level. This needs to be clarified.

We also raise the question of whether there is an inconsistency between the

"20 percent" formula and the intention not to subsidize parcel post or fourth-class catalogs. The 20 percent formula would appear to indicate a policy of subsidizing 20 percent of the expenses of each class of mail. If the 20 percent formula is applied to a base of expenses for all classes, including parcel post and fourth-class catalogs and if, at the same time, no portion of the appropriations goes to the benefit of parcel post or fourth-class catalogs, then the other classes will, in effect, receive subsidy at a rate greater than 20 percent of their expenses.

Section 3(a)

As amended by § 3(a) of H.R. 15511, § 3624(d) of title 39 would contain the following language: "The decisions of the Commission shall not be subject to approval, allowance under protest, modification, or rejection by the Governors."

The Commission assumes that the intent of H.R. 15511 is to eliminate all review authority over Commission decisions on the part of the Postal Service. The Commission is concerned that this language may create an inference that the Governors have some other, but unspecified, power over Commission decisions. Accordingly, we favor an outright repeal of § 3625. The proposed statutory language now contained in 3(b)(1) of H.R. 15511, exclusive of the above quotation from § 3624(d), would achieve the intended repeal. To avoid unforeseen controversy over the Service's future review authority, the Commission suggests that the above quoted language in § 3624(d), appearing at lines 11-13 on page 3 of H.R. 15511, be deleted.

Similarly, the Commission also suggests that references to the Commission "submitting" or "transmitting" decisions to the Governors be entirely deleted from chapter 36 of title 39. The suggested deletions would occur in §§ 3622(a), 3623(b), 3624(c), and 3641(a) (two deletions). Not only does this language suggest that the Governors can in some way alter Commission decisions, it also appears to grant the Postal Service a privilege not accorded other parties to Commission proceedings.

Finally, the Commission notes that the phrase "recommended decision" has been eliminated from §§ 3622, 3623, and 3628 of title 39. We assume that the intent of H.R. 15511 is to eliminate all references to "recommended" decisions. Therefore, the Commission suggests that the word "recommended" be deleted from §§ 3624 and 3662 as well.

Sections 3(b) and 3(c)

Under present law, persons who desire to appeal a decision of the Governors with respect to a recommended decision have 15 days from publication of the decision by the Public Printer in which to file their appeals. This 15-day time limit is not altered in H.R. 15511 § 3(c). However, the requirement that the Public Printer publish the decision within 10 days of its issuance has been eliminated by the repeal of § 3625 in § 3(b) of H.R. 15511. If it is the intent of H.R. 15511 that the Public Printer continue to be required to publish decisions of the Commission, the Commission suggests that the appropriate language be added to § 3624(c). If the intent of the bill is to eliminate the requirement for publication, the Commission suggests that § 3628 be amended to require that appeals be filed within a specified number of days from issuance of a Commission decision.

Section 3662 of title 39 (Rate and Service Complaints) requires the Governors to act on recommended decisions of the Commission in accordance with § 3625. Section 3(b)(1) of H.R. 15511 repeals § 3625. If, as we assume, it is the intent of H.R. 15511 that the Governors have no control over Commission decisions relating to rate and service complaints, the Commission suggests that the reference to action on the part of the Governors in accordance with § 3625 be deleted from § 3662.

Section 4

As amended by § 4 of H.R. 15511, § 3641(a) of title 39 would require the Commission to transmit its decision to the Board of Governors. As discussed above, the Commission suggests that this requirement be eliminated. If this requirement is not eliminated, the Commission suggests that "Board of Governors" be changed to "Governors" in order to make the first sentence of subsection (a) consistent both with the last sentence and with present § 3641(a) of title 39.

POSTAL RATE CASE (DOCKET NO. R74-1, SEPT. 25, 1973), EVIDENCE OF WITNESSES FILED BY U.S. POSTAL SERVICE AND INTERVENORS THROUGH JULY 9, 1974

By--	Date of direct evidence	Number of witnesses
Advo-Systems, Inc.	May 17, 1974	1
American Business Press	May 20, 1974	1
	July 2, 1974	2
American Library Association	May 17, 1974	1
American Newspaper Publishers Association	June 5, 1974	1
Association of American Publishers and Book Manufacturers Institute	May 17, 1974	1
Association of American Publishers et al.	May 31, 1974	1
Associated 3d-Class Mail Users	May 14, 1974	1
Direct Mail/Marketing Association	May 17, 1974	1
Dow Jones	May 10, 1974	1
	May 16, 1974	2
Field Enterprises Educational Corp.	May 17, 1974	1
International Labor Press Association	June 6, 1974	1
Magazine Publishers Association	May 17, 1974	2
	do.	3
Mail Order Association of America	do.	1
National Association of Greeting Card Publishers	do.	2
National Easter Seal Society	May 8, 1974	1
National Newspaper Association	May 16, 1974	1
Parcel Post Association	May 17, 1974	1
Post Card Manufacturer's Association	do.	1
Reader's Digest Association and Parcel Post Association	June 7, 1974	1
	July 2, 1974	1
Reader's Digest Association	May 17, 1974	4
Recording Industry of America	do.	1
Time, Inc.	do.	1
United Parcel Service	do.	2
	May 24, 1974	1
U.S. Postal Service	Sept. 25, 1973	7
	May 23, 1974	
	July 3, 1974	
OOC	May 16, 1974	4
Total		49

POSTAL RATE CASE (DOCKET NO. R74-1, SEPT. 25, 1973), INTERROGATORIES FILED BY INTERVENORS ON U.S. POSTAL SERVICE THROUGH JULY 9, 1974

Filed by--	Number	Number still not answered
American Business Press	21	0
Associated 3d-Class Mail Users	80	0
Council of Public Utility Mailers	50	40
Direct Mail/Marketing Association	85	0
Dow Jones	25	0
Mail Order Association of America	17	0
Reader's Digest Association	54	25
Time, Inc.	44	4
United Parcel Service	243	44
Additional intervenors	82	3
OOC	217	10
Total	918	126

POSTAL RATE CASE—INTERROGATORIES FILED BY U.S. POSTAL SERVICE ON INTERVENORS THROUGH JULY 9, 1974
(Oocket No. R74-1, Sept. 25, 1973)

Filed on—	Number	Number still not answered
Advo-Systems, Inc.....	10	10
American Business Press.....	19	16
American Newspaper Publishers Association.....	3	3
Oow Jones.....	3	0
Inland Daily Press.....	3	3
McCall Publishing Co.....	3	3
Magazine Publishers Association.....	29	26
National Association of Advertising Publishers and Publishers Distribution Institute.....	3	3
National Association of Greeting Card Publishers.....	7	7
Nationel Easter Seal Society.....	14	14
National Newspaper Association.....	3	0
Reader's Digest Association and Parcel Post Association.....	19	0
Reader's Digest Association.....	3	0
Time, Inc.....	11	7
United Parcel Service.....	52	52
OOC.....	3	3
Total.....	185	147

MAIL CLASSIFICATION CASE (DOCKET NO. MC73-1, JAN. 18, 1973), EVIDENCE OF WITNESSES FILED BY U.S. POSTAL SERVICE AND INTERVENORS THROUGH JULY 9, 1974

By—	Date of direct evidence	Number of witnesses
American Bankers Association.....	May 7, 1974	1
American Business Press.....	Oct. 10, 1973	4
	Mar. 11, 1974	
	May 7, 1974	
Advo-Systems, Inc.....	do.....	1
American Library Association.....	do.....	1
American Retail Federation.....	do.....	7
American Society of Association Executives.....	June 22, 1973	1
Associated 3d-Class Mail Users.....	June 21, 1973	5
	June 22, 1973	
	Sept. 4, 1973	
	May 7, 1974	
Association of American Publishers and Book Manufacturers Institute.....	do.....	1
Bank Stationers Association.....	do.....	1
Council of Public Utility Mailers.....	Nov. 16, 1973	2
	May 7, 1974	
Democratic and Republican committees.....	June 19, 1973	11
	July 24, 1973	
Department of Defense.....	June 15, 1973	1
Direct Mail/Marketing Association.....	May 7, 1974	1
Discover America Travel Organizations, Inc.....	June 21, 1973	1
Oow Jones.....	May 20, 1974	1
Josten's, Inc.....	July 23, 1973	1
Magazine Publishers Association.....	Aug. 10, 1973	4
	Nov. 26, 1973	
	Jan. 3, 1974	
	May 7, 1974	
Magazine Publishers Association et al.....	do.....	1
Mail Order Association of America.....	do.....	2
National Association of Greeting Card Publishers.....	do.....	1
National Newspaper Association.....	do.....	1
The New Republic.....	June 27, 1973	1
Parcel Post Association.....	May 7, 1974	1
Post Card Manufacturers Association.....	Dec. 19, 1973	1
Reader's Digest, American Business Press and McCall's.....	May 7, 1974	3
Recording Industry of America.....	Apr. 2, 1974	1
United Parcel Service.....	May 7, 1974	2
Or. Wattles.....	May 10, 1973	1
U.S. Postal Service.....	Jan. 18, 1973	10
	June 4, 1973	
	Aug. 2, 1973	
	Aug. 15, 1973	
	Dec. 20, 1973	
	May 23, 1974	
	June 10, 1974	
AGC, LO.....	Nov. 30, 1973	6
	May 7, 1974	
Total.....		75

MAIL CLASSIFICATION CASE (DOCKET NO. MC73-1, JAN. 18, 1973), INTERROGATORIES FILED BY INTERVENORS ON
U.S. POSTAL SERVICE THROUGH JULY 9, 1974

Filed by—	Number	Number still not answered
American Retail Federation.....	45	5
Associated 3d-Class Mail Users.....	4	1
Association of American Publishers.....	13	6
Bank Stationers Association, Inc.....	1	0
Council of Public Utility Mailers.....	20	0
Direct Mail/Marketing Association.....	45	4
Magazine Publishers Association.....	2	2
Mail Order Association of America.....	16	0
National Association of Greeting Card Publishers.....	10	0
Reader's Digest Association.....	40	0
United Parcel Service.....	64	23
Litigation division.....	460	185
Total.....	720	206

MAIL CLASSIFICATION CASE (DOCKET NO. MC73-1, JAN. 18, 1973), INTERROGATORIES FILED BY U.S. POSTAL
SERVICE ON INTERVENORS THROUGH JULY 9, 1974

Filed on—	Number	Number still not answered
American Bankers Association.....	16	0
American Business Press.....	55	24
American Society of Association Executives.....	9	0
American Retail Federation.....	2	2
Associated 3d-Class Mailers.....	86	0
Association of American Publishers.....	15	1
Bank Stationers Association, Inc.....	13	0
Columbia Gas System.....	14	0
Council of Public Utility Mailers.....	61	43
Democratic and Republican committees.....	66	66
Department of Defense.....	32	0
Discover America Travel Organizations, Inc.....	11	11
Direct Mail/Marketing Association.....	2	2
Fairchild Publications.....	45	0
Field Enterprises Educational Corp.....	8	0
Josten's Inc.....	23	1
McCaill's Publishing Co.....	36	34
Magazine Publishers Association.....	23	0
Mail Order Association of America.....	9	1
National Association of Greeting Card Publishers.....	5	0
The New Republic.....	17	0
Parcel Post Association.....	9	0
J. C. Penney.....	29	29
Post Card Manufacturers Association.....	18	0
Reader's Digest Association.....	25	0
Recording Industry of America.....	7	7
Time Inc.....	8	0
United Parcel Service.....	51	0
Or. Watties.....	44	0
Litigation division.....	256	170
Total.....	995	391

Mr. HANLEY. Well, thank you very much, Chairman Rhodes, for your very excellent testimony. Certainly you make a number of points that this committee will take under consideration.

As you have said, there is a great deal of confusion publicly with regard to the role of the Postal Rate Commission. I believe that most people, and probably a good number of the members of Congress, look upon the Postal Rate Commission as an inhouse function of the USPS. So, this confusion is indeed unfortunate.

It appears that one of your great fundamental problems is the difficulty of securing the information you need from the USPS to

proceed with your function. As you know, we had a great deal of colloquy here yesterday in this regard. This is most unfortunate and somehow or another we have got to arrive at a point whereas this wrinkle is ironed out.

On page 7 of your testimony, the first paragraph, “. . . the law does contain a number of provisions which raise the appearance of a lack of independence, and which could create problems in the future.”

Could you elaborate on that and tell us what problems you envision as possible in the future in the event that particular amendment is enacted?

Mr. RHODES. Mr. Chairman, I think the very fact that you have highlighted the misunderstanding of the nature and role of the Postal Rate Commission, if it is as widely misunderstood as we believe it to be, proves the very point you make.

Actually, one of the areas in your hearings yesterday dealt with the role of the Postal Rate Commission in rendering its decisions. The Postal Service has said that they do not object to securing in our decisions what they would consider matters of advice. Where that advice becomes a part of a recommended decision, the Postal Service and the Board of Governors feel that this would be more coercive than advisory.

The Board of Governors made this point clear in the first rate case. The Postmaster General said that he welcomes advice and assistance. He is concerned that decisions of the Postal Rate Commission might require the Postal Service to alter its management decisions and thus cripple its ability to improve service and control costs within the Postal System.

In your amendment to give the Commission finality, those matters in dispute would be heard by the court. I believe that your amendment will certainly tend to strengthen the independence of the Commission.

Mr. HANLEY. With regard to the present provision for review by the Governors of the Postal Service, I can only assume that that provides the Commission with a great deal of frustration?

Mr. RHODES. I think we ought to be clear on this. Our relations with the Governors have been good. I think that they—if they were to appear before your committee, would indicate that there has been a good relationship. This is true of our relations with the Postal Service except that we wouldn't want to convey the fact that everything is peace and light. There never would be a time when that would be achieved. We met with the Board of Governors recently. We had a very frank and full discussion with them of how our roles should fit together.

Mr. HANLEY. As of this time you haven't had an instance in which the Board of Governors overruled a decision made by the Rate Commission; is that correct?

Mr. RHODES. That is a correct statement, but as I highlight in my statement, that isn't to say that they agree with the assertion of jurisdiction that we made in the first rate case.

Mr. HANLEY. I would think that the mere existence of the provisions would be very troublesome. The Board of Governors, who

wouldn't be intimate with the deliberations that resulted in your decision, find themselves in the position of perhaps rejecting a well-founded decision that you people have made. I had a little trouble with this possibility, realizing the tenure and the time devoted by the Board of Governors to their function as opposed to the time that is consumed by the Rate Commission in arriving at a decision.

Mr. RHODES. It would be my view there is the possibility of a misunderstanding or misinterpretation that you point to. I don't know—I can't see that there would be problems in the future. There might be. We have only one case on which to base any actual judgment at this point.

Mr. HANLEY. Mr. Johnson?

Mr. JOHNSON. Thank you.

Mr. Rhodes and all the Commissioners and your counsel, I want to welcome you here this morning. I think you have really presented a real picture to us and in presenting a decision before this subcommittee and the Postal Committee here as to just what your function should be from here on out after 3 years of experience. I think to that extent your presentation here this morning, is a very fine presentation—you have presented some requests and some data and some facts which would indicate you would like to strengthen your powers over the Postal Service, so that you could, in your opinion, function better.

Now, for instance, one of your recommendations, you would like to see a law passed where you could require them, to put in a new accounting system. You think that in your function sitting as a judge and jury, that you ought to have that much of a clout on the Postal Service where you could require them to install a new accounting system.

Mr. RHODES. The law gives them the authority to establish the accounting system that they need for internal operations and we would not invade that any more than we would attempt ever, Mr. Johnson, to invade the management prerogatives which they must have in order to operate the business.

All we are saying, by our recommendation, Mr. Johnson, is that we would like to see a data base of accounting established so that we all understand what we are talking about. We are not trying to dictate to them any particular system over any other system but when they supply information to us we know that we are all talking about the same kinds of things. It is because of this kind of confusion that there have been so many interrogatories filed in the past. In the latest case, oral cross-examination and written cross-examination has been used to a great extent to clarify these very points.

One of the points, which is disturbing, came up in your hearings yesterday. I have not had a chance to look at the transcript, but, I am told, the Postal Service indicated that as far as its cost data is concerned, they are troubled by it.

We have had two rate cases without good cost data. How soon could we expect the cost data to be established in a reliable way?

Mr. JOHNSON. I can see, as you have stated here in your testimony, that you actually conduct an adversary proceeding. Like I say, you act as a judge and jury, and of course, your remedy, rather

than your being able to force the Postal Service to improve their cost accounting system and their revenue system and so forth, your only remedy right now apparently is to refuse to give them the increase in rates by reason of lack of a proper case submitted by the Postal Service justifying the rate. Isn't that your remedy today? You could just deny the rate. If you don't think that they have shown proper costs or proper estimates of revenue and so forth you could just deny them the increase in rates so you do have quite a lot of power without our giving you the power to demand that the Postal Service do things they are not doing today?

Mr. RHODES. What you say is true. There is the other side of that coin, though, and that is we would not decide the case until the data came in and that would have the same effect, you see.

Mr. JOHNSON. That is right.

Mr. RHODES. But let me say this, much is made over the fact that our deliberations are lengthy and the evidentiary proceedings take a great deal of time. It must be recognized that there has been no shortfall of money for the Postal Service. They are going ahead and collecting on the basis of the temporary rates, so that the delay is not causing them any shortfall. You do make a point in saying that either by direct decision, or by delay, we would have considerable persuasive authority.

Mr. JOHNSON. You see, we on this committee, dumped this rate-making into your laps. I spent 4 solid years listening to rate hearings right here in this room. So did most everybody on this committee. It was one of the most onerous burdens that any Member of Congress could assume and after a whole year of it then we had to decide what the rates should be and then in the bill we had to decide what the wages of the postal workers should be so I am very glad that we have put it in your laps and, of-course, we want to give you the tools to be good ratemakers.

Yet, I don't know as I want to go so far as to, let's say make you supreme over the Postal Service as some of your testimony here would seem to indicate you would like to have done.

Mr. RHODES. Mr. Johnson, let me offer a word of clarification.

We mean to exercise a degree of control only to the point that it will afford us the opportunity of securing information to enable this Commission to act as the Congress used to act; as a guarantor to the people that what the Postal Service is doing is right and proper.

Now, to the extent that we need to have information in order to make such a guarantee to the American people, then I think we ought to have it. I think we need to get—and the public would certainly expect us to have—the information on which to base such a judgment. To that extent we would like to see a much freer flow of information.

We are requesting anything here that other regulatory agencies don't have as to the type of accounting kept by people who are regulated by them. I am thinking, of course, about the ICC and CAB and others.

Mr. JOHNSON. Who was it that presented to you the bill of discovery? Is it the Postal Service, or is it those against whom the rate is being raised?

Mr. RHODES. Well—

Mr. JOHNSON. In all these interrogatories, who makes those all up?

Mr. RHODES. Actually the intervenors will file interrogatories. We have an officer of the Commission who takes the role of the public in these matters and the officer of the Commission, an attorney will file interrogatories to clarify areas that need further amplification.

Mr. JOHNSON. Thank you.

Mr. HANLEY. Thank you, Mr. Johnson. Mr. Derwinski?

Mr. DERWINSKI. Thank you, Mr. Chairman.

Chairman Rhodes, I assume that your prepared statement and your answers to Mr. Hanley and Mr. Johnson have the concurrence of your fellow Commissioners. I haven't noticed any of them frown or raise their eyebrow.

Mr. RHODES. They haven't nudged me, nor has the general counsel.

Mr. DERWINSKI. I find one proposal in H.R. 15511 that strikes me as being somewhat practical and that is—and I am pleased that you thought so too—and that is the provision that would eliminate the Board of Governors' review of your decision. I think it just seems practical that you make the final decision.

However, I am a bit intrigued and I notice you carefully skirted the issue, you avoided making any real statement on the question of having Senate confirmation of your Commissioners on the grounds that this was a matter peculiar to the Congress.

I am just trying to think back to legislative history and Commissioners Baily and Saponaro are the old heads in your group since they came in at that point; when everybody was looking at the bill we passed, it was obvious that the intent of Congress was to get politics out of the Postal Service since the Postal Department had been the deliberate political department in the Federal Government; we were perhaps overcorrecting.

And with all due respect to our colleagues on the other side of the Capitol, it has been my observation that most Senate confirmation hearings are either extremely perfunctory or they are deliberately overpolitical. When you have a period such as we are now in any Presidential appointee gets abnormal scrutiny but if you are in a honeymoon period and all is calm and cool and the press isn't raising Cain, the treatment is perfunctory.

I am not certain there is any particular magic in Senate confirmations. I just make that point.

But what intrigues me is something you get into in great detail in your statement. However, I would like a little clarification if necessary from counsel. What about this jurisdiction over special services such as registry of mail, special delivery, and experimental services? Now, it strikes me as the Postal Service has tremendous latitude and perhaps properly so, especially in their experimental services, but would you care to elaborate, any of you gentlemen, on that phase of it?

Mr. RHODES. I'd like for Mr. Dietrich, the General Counsel, to speak to the point.

Mr. DIETRICH. Thank you, Mr. Dewinski.

The dispute that exists now with respect to our jurisdiction over

special services arises principally with respect to old section 507 of title 39. The special services admittedly comprise, I think, in the range of 2 to 3 percent of total revenues received by the Postal Service but there are parties and people who have intervened in our proceedings who have indicated an interest in the cost of registered mail, for example, and they should have their day in court just as mailers who utilize other services.

I think that our regulatory Commission should also have an opportunity to determine whether or not the costs allocated to special services are proper, just as whether the costs allocated to the major services are proper.

On experimental mail, I think the problem is a—more of a potential nature than a problem that exists today. Potentially, the Postal Service could describe almost any new service as an experimental service. They could impact adversely, say, on Postal Service competitors if they decided to, say, implement an experimental service with regard to parcel service and before they undertake the implementation of an experimental service, it seems to me we ought to be apprised and the mailers who might be adversely affected ought to have an opportunity to come in and say how they would be affected and in particular, utilize the Commission as a forum.

MR. DERWINSKI. Same way the Commission would be utilized in a rate case, then?

MR. DIETRICH. Precisely.

MR. DERWINSKI. Then this would get back to the \$64 question, which would be the one of the Commission being able to function more rapidly in order not to have any temporary adjustment even for experimental purposes continue indefinitely?

MR. DIETRICH. I would think so, yes. Of course, experimental services and special services, could be considered as being presently within the Commission's jurisdictional reach, even though there might be disputes between us and the Service as to the proper scope of our jurisdiction. All we are asking for at this time in the chairman's statement is a clarification that we absolutely do have jurisdiction so as to remove any doubt.

MR. SAPONARO. I would like to add a comment to that.

MR. DERWINSKI. Yes, Mr. Saponaro.

MR. SAPONARO. I don't think it is our thought that we want to stop innovation nor do we want to control it, nor do we want to move in and take over the management's prerogatives in trying to do a better job, but I think the public interest requires that we look at it. You try to set up some experimental services in one particular area only I think the public interest requires there be a broad look at it and that is the point. We are not trying to say you just can't experiment or you can't do anything new. It's a case that the people, as a whole, be considered and I think we are probably the best forum to do that.

MR. DERWINSKI. Mr. Baily?

MR. BAILY. If I may just add to that—

MR. DERWINSKI. Please do.

MR. BAILY. I think you gave a clue as to the potential problem, "Continued indefinitely." We have tried to make very clear we are

all in favor of the Postal Service innovating, experimenting, but the question is at what stage does an experimental service, after expansion, after testing, after being in effect, stop being an experimental service and I think in the dispute if you want to call it that we have been much more concerned with things like registered mail, special delivery. Why, even with the proposed rates, costs will still exceed the revenues. Certainly, 2 to 3 percent of \$12 billion does have significance to the public.

Mr. DERWINSKI. One quick question, Mr. Chairman, and then I will finish.

Commissioner Villarreal, you have a background in transportation, and yesterday Mr. Klassen specifically referred to the difficulty the Post Office had in alternate means of transportation. I think he was referring to the abnormal increase in costs to the airlines, to truckers, to costs not only during the fuel shortage but other tremendous increases. From the years you have spent in transportation and specifically with regard to railroad transportation, can you envision the day when the railroads would be in a position to improve the availability of services to the Postal Service or is really utilization of the railroad a thing of the past?

Mr. VILLARREAL. Yes, sir; I do envision that with the increase in efficiency of the national railroad system that certainly railroads could be used effectively for the transportation of mail.

I also think that in the urban areas the use of urban mass transportation vehicles might be used in some of the larger cities that have rail rapid systems. In cities that have bus systems perhaps there could be a way to use those vehicles for the transportation of mail.

Mr. DERWINSKI. Thank you. Thank you, Mr. Chairman.

Mr. HANLEY. Thank you, Mr. Derwinski.

Chairman Rhodes, with regard to the pending rate case do you have any idea as to when you will complete that activity?

Mr. RHODES. Mr. Chairman, I said in my statement that we will continue the hearings on this case throughout the summer and possibly the deliberations might go into the fall. My guess is that the evidentiary record would not be closed before the first of October. The decisional phases of the case, are going to consume at a minimum 3 to 4 months. It would be very difficult to predict precise completion dates.

Mr. HANLEY. Under the best possible circumstances you envision what, October, as the final?

Mr. RHODES. That is, the evidentiary record would be closed then. Then we would go into the decisional phase of the case.

You were asking me, I think, what time would our recommended decision go to the Board of Governors?

Mr. HANLEY. Through October and then you tack on another 3 months; is that correct?

Mr. RHODES. Three to four months.

Mr. HANLEY. That would bring us perhaps into February, March?

Mr. BAILY. Mr. Chairman, your question ties into some of the points Mr. Johnson raised and if I might just point this out.

Now, we have tried to make clear part of the reason it takes this time to compile the evidentiary record, and if you read the interrogatories that were served on the Postal Service asking for information that intervenors feel is necessary for their case and the intervenors include not only the mail users but the officer of the Commission to represent the interests of the general public, you see a constant refrain—"Information not available," "It would take a month to provide the answers to you," "Too many men-years involved in providing the answer," so there is almost a direct correlation between, first, the quality of the filing and secondly, the providing of the information and the length of time it takes in the case.

Mr. SAPONARO. Mr. Chairman?

Mr. HANLEY. Sir?

Mr. SAPONARO. Directly responsive, I think, to the question you are raising as to the time sequence on this evidence, there are 49 witnesses who have already served testimony so far and they have got to be heard, rebuttal to certain of these witnesses has got to be heard, so that that's an indication. We have tried to expedite this by having written cross-examination questions provided so as to cut down on the length of time that you have oral cross. The parties—this is somewhat unusual—the parties have to file a motion to get permission to have oral cross-examination and our administrative law judge is trying to run this hearing, give everybody judicial process but he is holding a pretty tight rein. We are not letting people roam all over the lot asking questions, so we have right before us right now the testimony of almost 50 witnesses.

Mr. HANLEY. Well, I pose this question because in recognizing the fiscal cloud which hovers over the USPS, it is rather evident that directly on top of your current proceedings will be the consideration of another rate increase unless the provision contained in the legislation I have introduced is adopted and enacted into law, so it would appear that as soon as you terminate this proceeding you will be moving in another direction with another rate increase, so call this perhaps your apprenticeship period in the hope that—

Mr. SAPONARO. Well, I wouldn't be surprised if we are not faced with that, that is correct.

Mr. HANLEY. Well, there isn't any other alternative, as I see it, unless the provisions contained in this legislation are adopted. I don't believe there is sufficient equity within the USPS for it to fund its deficit from its equity. This provides a very awkward situation where really you would then be dealing with the same set of people you are dealing with presently, so in essence it becomes a career.

Mr. SAPONARO. Well, I think once precedents are established, once decisions are made on particular items, particular questions, I would assume that the length of time to hear it the second time around is going to be a lot shorter.

In other words, I assume that we are going to learn and I assume that the people that come before us are going to learn from the decisions that we make.

Mr. HANLEY. As you know, there was some colloquy with regard to the abolishment of the Postal Rate Commission. We discussed

with Mr. Klassen, having it become an in-house entity within the USPS, and you are probably aware of what the Postmaster General's response to that question was. Do you have any comments, Mr. Chairman?

Mr. RHODES. Yes, I'd like to comment on that, if I may.

We probably engaged in the same sort of wishful thinking when we said that we would like our budget to be handled as was suggested in the earlier drafts of S. 411, that we would just simply turn our vouchers over to the Postal Service for payment.

I think in the best of all possible worlds a manager such as the Postmaster General is would say, "Certainly," if there were a way to avoid going through this long procedure he would welcome it as a manager.

I come back to the thought that the manager really needs someone to occupy the role that the Congress formerly occupied in this very complicated matter. He does not have the ability to communicate with the public generally. I think he has done a magnificent job in turning around a huge organization that was probably as finely attuned and sensitive as far as any outside influence is concerned as the Post Office Department was, and responsive to outside influences, and I am speaking now particularly of political influences. They have turned this thing around totally in a remarkably short time to the point where the public generally has the feeling that it is sensitive to the demands of the public. You read the newspapers and you come to this conclusion rather readily.

I believe that the Postal Service very desperately needs the independence of and the assistance of the Postal Rate Commission in getting at some of these problems. We are a forum for the mailers. If you were to follow the procedure that was suggested by the Postmaster General, I assume that the only forum the mailers would have under that would be to try to be heard when the Congress would consider a veto of some suggested rate.

I believe, although it may have some surface enticement, the Postmaster General in the final analysis would find it very difficult to go back to that kind of ratemaking. More and more there would be demands in Congress for things that would go into the very essence of the operation of the Postal Service.

Mr. HANLEY. All right. I want to carry on this colloquy but at this point I want to recognize Mr. Johnson.

Mr. JOHNSON. Yes. I have a few more questions.

Now, with respect to doing away with the power of review by the Board of Governors—and I will address myself to counsel—what is the extent of this power to review today?

Mr. DIETRICH. The Governors may, by statute, and I am referring to the section 3625 of title 39, reject, modify or allow the Commission decision under protest, and then seek review of it, or return it to the Commission for further consideration. They can also approve it, which they did in the last case.

As a practical matter, they have to operate in a very short period of time, within 30 days approximately, when they are reviewing a decision. They, in effect, can overturn the Commission's decision.

Mr. JOHNSON. Yes. In other words, they could send that decision

back to you with the finding that you didn't give them enough money to operate on and in view of costs and the present situation and they could practically demand that you review or change or alter your decision, maybe hold some more hearings or do almost anything; is that right?

Mr. DIETRICH. Yes, sir. Under the act, which states, "With the unanimous written concurrence of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission," under section 3625.

Mr. JOHNSON. The decision would have to be a unanimous decision of the Board of Governors?

Mr. DIETRICH. That is correct. Not the Board of Governors but just the Governors, which would be exclusive of the Postmaster General.

Mr. JOHNSON. I think the reason is that when we drafted this legislation there was a feeling that there must be a type of appeal procedure in the law and as the kind of intermediate step to keep people from going to the courts and with the interminable delays of court actions, I think the feeling was a review by the Board of Governors would suffice.

I think one of the reasons for this intermediary step and perhaps it is a good one and maybe it isn't, but let's say we eliminate it. Then the decision of the Commission would then be subject to review by the courts as any other regulatory agency. That would be just on their own conclusion of law or finding of facts which were against the preponderance of evidence. To what extent would the courts be able to review the finding of fact?

Mr. DIETRICH. Well, the scope of review, the scope of review by the appellate court would be the same as that spelled out now in section 3628 of the statute. The court would not be permitted to substitute its findings for those of the Commission but they could make a determination as to whether or not the Commission came up with a reasoned decision that was based upon substantial evidence in the record and I would add, Congressman Johnson, that the intermediate decision, as you call it, now by the Governors in effect, if you were to eliminate the intermediate decision by the Governors would in effect be speeding up the time when the order became final; that is, right now under the act the Governors' decision is appealable to the court.

Mr. JOHNSON. Yes.

Mr. DIETRICH. And indeed it was appealed at the end of the first rate decision. The Governors went along with our recommended decision so the court in effect affirmed the Commission's decision.

Mr. JOHNSON. If they have the right to go to the court they might just as well have the right to go in the first instance and that would speed it up?

Mr. DIETRICH. Yes, sir.

Mr. JOHNSON. And you would have more of an impartial decision, let's say, if you had the courts to decide your actions rather than the Board of Governors, who would have a tendency to look upon their own problems of lack of revenue and so forth and would tend to be biased, let's say—not necessarily so, but they could be?

Mr. DIETRICH. That's a fair statement, I think, Congressman Johnson. It's more of a potential problem than a problem that has surfaced to date.

Mr. JOHNSON. Now, as to the independence of your budget. Mr. Rhodes, your idea would be that you as a Rate Commission would draft your budget for the year and decide how much money it is going to cost to run the agency and you just present the bill to the Postal Service and they would have to pay it? Is that about what you said?

Mr. RHODES. The way I had indicated in my statement first is the way it is now, which is, of course, that we submit a budget to the Board of Governors and they consider it. They can change the total but not individual items within the budget, but they can only change the total if there is a unanimous agreement among the Board of Governors to do so. We have had no problem with this whatsoever.

I merely said, as an aside, if we did not use that route the absolute that we would suggest would be that which appeared in S-411, where we would simply turn over our expense vouchers to them when they have been properly authenticated. That would not eliminate the oversight which this committee would have over the Postal Rate Commission, of course.

Mr. JOHNSON. Okay. I have just one more.

Mr. BAILY. If I may just add something, Congressman Johnson.

Mr. JOHNSON. Surely.

Mr. BAILY. This is for background. For the first 3 years of our existence, we have turned back significant amounts of money.

Mr. JOHNSON. You are rather unique in that respect.

Mr. BAILY. We think so.

Mr. JOHNSON. Now, one more question.

With respect to your having hired A. D. Little to study present Postal classifications, do you really feel that that's within your province to hire an independent firm to study postal classifications and come up with a whole new classification of mail?

Mr. RHODES. I should let the General Counsel speak to the specific terms of the contract. It was our feeling that an exploration of the ramifications of this very difficult subject should be undertaken.

It was done and the report was broadly disseminated by us. Based on that report the Postal Service came up with the suggestion that it undertake studies that will run into many millions of dollars. Hopefully this will be the ultimate in classification reform.

Mr. JOHNSON. Of course, you have no power right now in which to force the Board of Governors to adopt your proposed classifications.

Mr. RHODES. This study did not address itself to any specific systems. It merely showed models that might be used in testing classifications and these tests would have to be implemented by the Postal Service. The report was simply an educational tool.

Mr. JOHNSON. But if we gave you the additional powers that you suggest to issue subpoenas and require the Postal Service to adopt a new system of accounting and a few other things, would you then have the power to completely change the Postal classifications in the nation?

Mr. RHODES. I will let the general counsel speak to the point, but I believe that this is the evidentiary record which we are now building which will determine the way they will go. In its recent decision the Commission decided in order to get at the matter in a more timely way, we would deal with the case in three separate phases. The last of these would be the implementation of any long-range studies which the Postal Service would undertake. This would later be examined by all the parties including the Postal Rate Commission, including the Committees of Congress.

Mr. JOHNSON. I am asking these questions because there is not as many members here this morning as there might be and it is a very, very—I think a very important subject that we are on and like I say, I am very thrilled that you people have the job and are doing the job and we want to make your job just as easy as we can. We want to make you independent, yet I would be rather leery about giving you too much of a power over the system itself.

I think you are sitting as a regulatory, independent agency and you have the power to adopt, to recommend or disallow the rates that they suggest. I think you are a very wonderful part of this whole new system and I am like Mr. Hanley, I would like to make it possible for you to function well and do the job well and quickly and I think if it means to speed up the thing, doing away with the power of the Board of Governors to review it, why perhaps maybe we should do it.

Mr. VILLARREAL. Mr. Johnson, I think that one point which I would like to reiterate is that the Postal Rate Commission doesn't order the United States Postal Service to do certain things. It makes decisions which are based on evidentiary materials.

Mr. JOHNSON. That's right.

Mr. VILLARREAL. And that's a very important concept which a great many people really aren't aware of.

One of the misconceptions of the general public is that the Postal Rate Commission might be a part of the Postal Service and, of course, as you know, nothing could be further from the truth.

As you know, all of the Commissioners are very concerned about the amount of time that the hearings take. The only comment that we would make is that if we want due process, if we want all of the intervenors to be heard, if we want the evidentiary material to come before the American people, the Postal Rate Commission, is truly a forum for this to happen. In this particular instance we have 20 extremely active intervenors in both the classification and the rate cases now pending and about 50 intervenors in each case. All have their briefs and their arguments to present. The officer of the Commission, who represents the people, and the counsel for the Postal Service also have testimony and exhibits to present so it is just like a court that is in session. When you have all of the parties presenting evidence, compounded by the many delays of the Postal Service in answering the interrogatories, this of course, has increased the time for hearing. I think it's very important, Mr. Johnson, that we make the point that everything that the Postal Rate Commission decides has to be in accordance with due process and has to be based on evidentiary record.

Mr. JOHNSON. Well, sure. If you get cost information which is based on an inadequate base and everything, you can't intelligently render decisions. That is about what it adds up to, isn't it?

Mr. VILLARREAL. That is correct, sir.

Mr. JOHNSON. Well, how many interrogatories has the Commission issued? How many interrogatories have you issued, do you know?

Mr. SAPONARO. I have got some figures on that.

Mr. JOHNSON. Go ahead.

Mr. SAPONARO. In the rate case, the total number of interrogatories that have been served by all the parties through July 9 is over 900.

Mr. JOHNSON. How many has the Commission served?

Mr. SAPONARO. Our own department has served over 200.

Mr. JOHNSON. Over 200 interrogatories?

Mr. SAPONARO. Yes, sir. One of the intervenors has served more than that.

I think you made another point, Congressman Johnson, I would like to address myself to for a moment. I think it might be of interest to you, we told that we have phased the classification case. Now, in the phasing, in the first phase there are over a half dozen proposals, over 13 witnesses, 13 witnesses already have filed testimony on changes that the intervenors would like to make.

In the second phase, the intervenors have filed over 200 changes in the present system they would like to make so that a lot of people, a great many people have a great deal to say about this present system, changes they would like to see in it, which we were set up to hear and render a decision to the Government on after we have heard all the evidence.

Mr. JOHNSON. Of course, these 900 interrogatories have all been served on the Postal Service. Have any of them been served on any of the intervenors?

Mr. SAPONARO. Yes. The Postal Service has done its share of serving interrogatories, too. They have served about 200 on the other parties—that's an approximate number—in the rate case alone.

Mr. JOHNSON. I am informed my time has expired.

Mr. DIETRICH. Let me add an addendum to that, Mr. Johnson.

The Commission was aware of the data base problem early on in deciding the first rate case. They recognized that quite clearly and within a few months after deciding the rate case they initiated a rule-making proceeding which consisted of a number of forms that were prepared by the staff and a number of rules which were designed to get a full and elaborate data base in anticipation that, if this project was successful, most of the interrogatories in the future would be unnecessary. But the Postal Service resisted developing a data base in July of 1973—excuse me, 1972—July 1972, primarily on the grounds they thought it was premature to get into the development of a data base; that is the structure of a data base for future cases, until more rate cases have been brought to the Commission for decision and decided through the Governors' efforts and through the efforts of the Courts of Appeals. So, I anticipate that given what

Chairman Rhodes said about our chief accountant going to the Postal Service and trying to study their accounting system, that efforts in this direction will continue in the future, but until they are really resolved and a golden data base is established, the interrogatory process will continue if parties are going to be afforded, as Mr. Villarreal stated, an opportunity for due process.

Mr. JOHNSON. Are these interrogatories frivolous or of substance?

Mr. DIETRICH. They are technical, Mr. Congressman, and the answers are technical, too. Some of the answers go on for pages, and it is obvious that the answers are of such a nature that it is more efficient using written questions and written answers than through oral examination. A witness would be on the stand for many days giving some of the technical information we received in answer to one interrogatory.

Mr. JOHNSON. I don't believe we contemplated such a complicated and technical process in setting up your system but it is the law and I guess we have to live by it. It is due process, as you say.

Mr. HANLEY. Mr. Chairman, may I ask how many months were the temporary rates in effect prior to your first decision and subsequently how many months were the permanent rates in effect prior to the next overture.

Mr. DIETRICH. Might I answer that, Mr. Chairman?

I believe that the dates roughly would be that the Postal Service filed the first rate request in February 1971, February 1, 1971, and a hundred days later it went into effect temporarily. The Commission issued its decision in the first case in June 1972 and the Governors approved it in July, July 6, 1972, so approximately the temporary rates were in effect for 13 months and then permanent rates were in effect from July 1972 until the next rate case was filed, which was—

Mr. SAPONARO. September 1973.

Mr. DIETRICH [continuing]. Which we received, as Commissioner Saponaro says, in September 1973.

So, permanent rates would have been in effect for approximately 14 months before the filing of the second rate proceeding.

Mr. HANLEY. Then I would assume that if you render a decision in the pending case perhaps in January or February the USPS will come on with, again, in the event that this legislation is not enacted, that the USPS would then come on with another rate-type proposal and subsequently enjoy another temporary period. That being the case, then actually isn't the USPS setting the rates as opposed to the Rate Commission inasmuch as it enjoys from the very beginning what it seeks?

Mr. RHODES. I tried to speak to that—

Mr. HANLEY. It would appear to me that in this procedure your Commission is really powerless to regulate rates so long as the USPS has the ability to enjoin temporary rates, so your action seems to be kind of an exercise in futility with the entity itself, the USPS, really setting the rates.

Mr. RHODES. Mr. Chairman, I would respectfully disagree. Of course, the Congress established the ability for them to make temporary rates so that there would be no shortfall in revenues during this period of time when the matter would be under consideration.

The complaints that have been made are certainly ones that have been given considerable amount of heat, but again there has been no loss of revenues as a result of whether the rates happened to be temporary or permanent rates—

Mr. HANLEY. That is true, there isn't any loss of revenue, however, the USPS really voids a decision made by your Commission and is enjoining its purposes; isn't that true?

Mr. RHODES. Well, once again, Mr. Chairman, the Commission has within its authority the ability to recommend a different spread of rates. Suppose at the end of the decision we determine that the spread of rates is not correct. We would be able to alter that by a recommendation.

Mr. HANLEY. May I ask at this point, then, in your earlier decision was there any deviation between it and what the USPS asked for, and if so, what?

Mr. RHODES. Yes, there was. There was a different spread. I will let the general counsel and my colleagues speak to this. Let me say that under your amendment Mr. Chairman, the period of temporary rates will be shortened. There isn't any question of that.

Now, I will let my colleagues and the general counsel speak to the rest of your question.

Mr. SAPONARO. I'd like to mention, address myself to your question concerning what they filed for in the first case and what was allowed. There were a number of changes, none of any earthshaking magnitude, so to speak, but there were changes and I will run right down them as best I can remember at this point in time.

We changed the rate concerning postcards in first class. We made about three, at least three changes, maybe four in second class rates and in the various subclasses. We made several changes with respect to the third class rates. We made a change with respect to one of the elements in fourth class rates. We also made modifications in the revenue requirement estimates which the Postal Service had originally made. So all told these estimates amounted to roughly \$140 million a year for the revenue requirement adjustments and about \$78 million per year for the rate adjustments. (See table I page 38 of Recommended Decision in R71-1.)

Now, in an operation that involves the billions it is not a great deal, but in other words, it wasn't just a case of a rubber stamp being placed on what was filed. We did go further than that. We pointed out there are a number of areas where further study has got to be made. For example, we stated to the Postal Service, "Look, this second class rate structure is entirely too complex. We request that you study it and come up with some new plans and new ideas in the classification case," which we knew was coming right on. Now, the facts of life are that they haven't made those changes, but I just cite that. This is a brief summary as best I can remember at this moment of the action taken in the first case.

Mr. HANLEY. Thank you.

Mr. RHODES. Mr. Chairman, I'd like to point out that we are arranging to borrow an additional Administrative Law Judge. This arrangement has not been finalized yet, but he will concern himself with the classification cases. We are hoping to secure the services of

Judge Herbert Sharfman, who is an administrative law judge, presently assigned to the Federal Communications Commission, who will now be taking over the classification case.

Mr. BAILY. Mr. Chairman, if I can return to your question—

Mr. HANLEY. Surely.

Mr. BAILY. What Commissioner Saponaro pointed out was very important because these were significant differences even if the dollar amounts were limited to the magnitude of the \$140 million for the revenue requirement estimates and they did involve some of the points that are covered in our testimony here because there was a jurisdictional dispute as to whether we had any right to review the total revenue requirements of the Postal Service and by our reviewing it, for example, we increased significantly the investment income that they would earn. Actually, despite their claiming we had overdone it, we actually undershot the mark. We took the labor contract and rather than charge the full increase against 1 year we broke it up against 2 years and in that way were able to save the mail users the figures that were cited.

Now, in the statute, though, we have the overriding consideration that the statute says that revenues plus appropriations have to cover costs. Costs are determined by the Postal Service under their managerial authority but rates, as recommended by the Commission, and appropriations, as determined by the Congress, have to cover those costs.

As to your point about temporary rates, the statute does restrict the temporary rate authority of the Postal Service so that it is not quite their having this back-door authority. They may propose temporary rates which have to be the lower of either the requested rate or no more than one-third over the existing permanent rate.

Now, the interesting thing is that at the moment the temporary rates that they have enacted under their authority are very close to the requested rates but if, for example, they come in with another rate increase before we have acted we haven't changed the permanent rate so there is a limitation directly through the law. I think another thing really needs to be clarified, because the discussions go back and forth as to whether the time period before which temporary rates can be put in are related to our ability to complete the case and make a recommended decision or are they related to the financial problem of the Postal Service so that the Postal Service, as the chairman indicated, and get the increased income to cover increased costs pending the determination of the case.

Mr. HANLEY. As I understand it, should you make a decision, and it isn't agreeable with the Postal Service or the Board of Governors, the Postal Service is then empowered to again impose temporary rates?

Mr. BAILY. If we make a recommended decision the statute provides the option the Board can either accept, accept under protest, or as the general counsel pointed out, they could say, "Well, you haven't taken into account the following," and send it back to us for consideration. To modify it would take unanimous written agreement of the Governors, of the nine Governors, and of course there is also the court review.

Mr. HANLEY. But the USPS still enjoys the ability to invoke again temporary rates?

Mr. BAILY. Well, but if there were no permanent rates determined they have already used the limit of their authority at the moment. Now, maybe I shouldn't be talking. As a nonlawyer, it is too easy for me to try to answer legal questions.

Mr. HANLEY. One of you answered in the affirmative and the other answered in the negative. Is my interpretation correct that the USPS would enjoy the ability in this instance to reinvoke the temporary increase?

Mr. DIETRICH. I am not sure of what decision we are talking about as being made by the Governors.

Mr. HANLEY. If the USPS disagrees with the decision made by your Commission it then immediately can file and move in the direction of another temporary rate increase; is this correct?

Mr. DIETRICH. If they send it back to us for reconsideration they may thereafter modify, in a unanimous written decision, which always has to be based on the record, the Commission's further recommended decision. The Governors' unanimous decision would set the permanent rates. Thereafter the Service could file for further increased rates and within 90 days plus 10 more days' notice, a total of 100 days, they could make their new rates temporarily effective.

I would only add that the Postal Service is unable ever to increase temporary rates above the one-third limitation. Once they get up to that level they can't "pancake," as the term is used, before other regulatory agencies. That is, sometimes the regulatory agencies such as the FPC, can't decide the first rate request, can't decide the second rate request because of the complexity of the data, procedural difficulties and so on, and the utilities file and collect for more and more rate increases. This is true in State commissions, too. The Postal Service can't do that once temporary rates are one-third greater than permanent rates.

Mr. HANLEY. Mr. Chairman and gentlemen, we are about to conclude our hearing. I again want to express on behalf of the full committee our thanks for your appearance this morning and to that add a request that if you can offer any specific ways whereas this process can be expedited we would like very much to hear from you.

Mr. RHODES. Thank you, Mr. Chairman.

Mr. HANLEY. The committee will stand adjourned until Teusday, July 16, at 9:30 a.m.

[Whereupon, at 11:45 a.m., the hearing was adjourned to reconvene at 9:30 a.m., on Tuesday, July 16, 1974.]

PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

TUESDAY, JULY 16, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE,
Washington, D.C.

The subcommittee reconvened, pursuant to adjournment, at 9:30 a.m., in room 219 of the Cannon House Office Building, Hon. James M. Hanley (chairman of the subcommittee) presiding.

Mr. HANLEY. This morning we resume our hearings on H.R. 15511. This bill was introduced for the purpose of hopefully producing some amendments which will relieve some of the shortcomings prevalent in the U.S. Postal Service.

Our first witness is my friend and colleague, Congressman Dante Fascell, who has for a long time, evidenced a keen interest in this subject matter.

I recall his testimony in our hearings in Florida last year at which time he made a measurable contribution to our deliberations.

Mr. FASCELL. Did you say measurable or immeasurable.

Mr. HANLEY. Measurable.

Mr. FASCELL. I wanted to know in which light to cast my testimony.

Mr. Chairman, I have a prepared statement which I would like to submit for the record and then proceed for a couple of minutes.

Mr. HANLEY. Fine.

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FASCELL. I am delighted to appear again, Mr. Chairman, and am happy to commend you and your subcommittee for persistence and determination to bring about improvements. While sometimes I am a wee bit skeptical about legislating administrative improvements, I think you have put your finger on a possibility that should certainly help the department.

So, I strongly support two major concepts laid out in this legislation and that is for closer congressional oversight of the operation and increase in maximum level of the funds.

I think those two things should be extremely helpful. We are aware of the service problems. Your record is as complete as a record can be on the difficulties with service, I think it is quite clear that in order to bring about some kind of balance that a lot of people thought was the right thing to do, that the service had to suffer.

I have never felt happy with the concept that postal service was 100 percent business and no public service. I think it definitely is public service and Congress has said this time and time again. The measure of that public service ought to be paid for out of the general revenue.

Some consideration might be given to setting down criteria for the level of service as a measuring stick for operation and appropriation. I suggest the level that existed in 1970 might be a level but we can pick any level. I don't know if we can spell it out specifically. I am not sure it would be wise to lay down the criteria of service in legislation or even regulation, but certainly we should spell out an objective of service as a policy declaration by the Congress.

I think it is sensible to lay down objectives of service in some way and have the department fill in the steps after we choose a type and level of service we would like to see and we can pay for or will have to pay for.

I think the direction we are going in now is not helping anybody; not helping the department and tearing up the service across the country. So, I think we have to make some changes. There will be a lot of give and take and I think the legislation is a step in the right direction. So, Mr. Chairman, I commend you.

Mr. HANLEY. I appreciate your observations, Dante. From the standpoint of quality of service, there is contained in the provisions of this legislation an authorization aspect which would allow the Congress the opportunity to keep its finger on the pulse without becoming involved in the actual administration of the entity.

Mr. FASCELL. There is sufficient difference and distance between the two, so we shouldn't be confusing.

Mr. HANLEY. Well put. Again, with regard to the subsidy aspect of this, we are advised that the current deficit of the entity ranges somewhere around \$400 million to \$500 million and there isn't any other way of recovering this presently, other than through postal rates. For this reason, some of us feel it is incumbent on the Congress to move in the direction of a subsidy of up to 20 percent.

This has been confused by people as meaning 20 percent flat, but, we are not saying that at all. Depending on the need, the subsidy would go up to 20 percent.

Mr. FASCELL. Is there some kind of observation with respect to the deficit and rates in service, showing where the two meet somewhere in the future? In other words, how exorbitant would the rates have to be to make up the deficit at some time in the future and with what kind of service?

Mr. HANLEY. Assuming the language of this bill prevails, and the authorization part of it prevails, we do have a mechanical problem to determine exactly what the fiscal needs of the entity will be. We know now what the projections for this given year are, but it is a little difficult, for instance, in the implementation of the legislation per its language, to make a determination as to exactly how many dollars the U.S. Treasury would be called on to contribute.

It is a mechanical part of it that we hope we can work out.

Mr. FASCELL. There is no existing projection on, let's say, a given rate of service and what it would take in terms of rates to eliminate the deficit and the amount of time it would take?

Mr. HANLEY. Not really.

Mr. FASCELL. No studies of any kind on it?

Mr. HANLEY. There is a great deal of controversy related to the cost ascertainment process.

Mr. FASCELL. That sounds familiar.

Mr. HANLEY. Unfortunately, that problem exists and that is part of the ball of wax.

Mr. FASCELL. Why can't we go by the rule of thumb that cost is the total amount of expenditures?

Mr. HANLEY. That is fluctuating greatly as the rate of inflation continues to spiral. It is a very complex problem.

Mr. FASCELL. I gather, Mr. Chairman, that we have not had a breakdown on internal cost for classes of mail or operations or anything that is satisfactory?

Mr. HANLEY. We have a breakdown, but in my mind, it is less than an accurate one.

Mr. FASCELL. That does make the problem difficult.

Let me say that we appreciate your perseverance in this matter. We need help, the whole system does, and it will take our best efforts.

Mr. HANLEY. Hopefully, through the course of these hearings, we will have a good number of members scheduled to testify. When I introduced this legislation, I said it wasn't perfect, but it is a vehicle.

Mr. FASCELL. That is the reason why I didn't get into the details; the concept is the important thing here, it seems to me. The oversight and additional funds and work for improved operation is where we are trying to go.

Mr. HANLEY. We will have a great deal of input and subsequently will find ourselves equipped with a background to move ahead with a package that hopefully the full House will buy.

With that, thank you for your time this morning.

Mr. FASCELL. Thank you, Mr. Chairman.

[The prepared statement presented by Congressman Fascell follows:]

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF FLORIDA

Mr. Chairman, I appreciate this opportunity to appear before you to discuss H.R. 15511, a bill to amend the Postal Reorganization Act of 1970.

I would like to voice my strong support for what I feel are the two major concepts contained in this legislation: closer Congressional oversight of the operations of the Postal Service; and, an increase in the maximum level of Federal subsidy to the postal system.

The need for Congressional action has, I think, become painfully clear to all as the Postal Service has reduced levels of service in a number of different areas in order to cut costs. For example: the frequency of pickups from postal boxes has been reduced, often to as little as once daily in residential areas; Saturday deliveries have been suspended for many postal patrons; areas which receive two and three deliveries per day have been reduced; and window service at post offices has been cut back, resulting in frequent long lines.

In addition, increase centralization and automation have tended to increase considerably the percentage of misdirected and lost mail, reducing the reliability of the system, and creating public mistrust. This condition has been exacerbated at times by manpower freezes, early retirement of highly skilled and experienced employees, and loss of employee morale.

It is this lack of reliability and resulting mistrust that is the most serious aspect of our present postal problems. If the people of this country cannot depend on the postal system to deliver their important mail, then the system is failing to fulfill its essential purpose. While reducing costs is certainly a worthy objective, it must not be done at the expense of service. Postal service cannot be viewed as just another business enterprise, out to cut costs and make a profit—good postal service is an essential public service. I think that the first paragraph of the Postal Reorganization Act which created the Postal Service puts it very well: "The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by an Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons of all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people."

Unfortunately, the U.S. Postal Service has virtually ignored this mandate in its single-minded pursuit of the less essential goal of self-sufficiency by 1984.

I believe that the legislation before us will act to reverse this trend. One crucial aspect of this bill is its affirmation of the fact that the value of postal services exceeds the sum total of its value to individual users; that there is a public service value to the nation as a whole which justified a "public service cost". I agree with this position. A speedy and reliable postal system has been recognized as a governmental responsibility since the framing of the Constitution and before. It has been and is a valid and worthy recipient of public funds. This bill recognizes the "public service value" and "public service cost" by providing for up to a 20 percent federal subsidy for the Postal Service.

Equally as important, this legislation permits increased Congressional oversight of the Postal Service to guarantee that any increased public funding is utilized to improve overall levels of service and thus comply with the public service cost policy which the bill establishes. This increased oversight responsibility would be accomplished through an annual authorization process, as opposed to the present system where funds are drawn from the Treasury on a virtually automatic basis. I strongly support this change in funding procedure.

I believe that certain proposed changes in the structure of the Postal Rate Commission would act to increase Postal Service accountability. The budget of the Commission would be made a separate budget item, subject to Congressional approval. Postal Commission appointees would require the advice and consent of the Senate. Finally, and most importantly, the decisions of the Commission would no longer be subject to approval, allowance under protest, modification, or rejection by the Board of Governors of the Postal Service. These changes would serve to reduce the self-regulating aspect of the Postal Service, and I support them.

In summary, I would like to stress once again that it is absolutely essential that postal service be improved. The country has always relied exclusively on the U.S. mails to conduct its business, and this is as it should be. However, if this is to continue, the Congress must act to improve service and restore confidence. I believe that H.R. 15511 is a constructive step in that direction.

My only criticism would be that perhaps the bill does not go far enough in spelling out the need for improved service. I would, therefore, like to suggest that language be added to the legislation which would make it U.S. Postal Service policy to attain, at the very least, the level of service which existed when the postal system was reorganized in 1970, within a given time period. This would serve two functions: (1) It would make clear beyond dispute the will of the Congress that service be improved; and, (2) The provision would serve as a useful yardstick during the proposed annual authorization process.

I believe that the enumeration of such a goal is in keeping with the original Congressional mandate of the Reorganization Act of 1970, as well as with the goals of this legislation we are considering today: to recognize and reaffirm the responsibility of the government to provide the nation with a speedy and reliable postal system.

Mr. HANLEY. Our next witness this morning is Mr. Robert J. Myers. Mr. Myers, it is a pleasure to have you with us this morning.

STATEMENT OF ROBERT J. MYERS, PUBLISHER, THE NEW REPUBLIC

Mr. MYERS. I have already submitted a statement which I assume will be entered into the record.

Mr. HANLEY. Without objection, the entire statement will be placed in the record, following your summarization.

Mr. MYERS. What I mentioned, briefly, which I think is obvious to most unbiased persons, is that postal service management has not done a very good job.

The Board of Governors' idea has failed. It is a self-regulatory concept by people who are selected on the basis of knowing nothing about the subject as a requirement for appointment. This has meant the costs of the Postal Service have soared higher than inflation, as you know.

The projected deficit of \$400 million to \$500 million does not include \$1.4 billion from the Treasury, which is now considered income. I think this will be a new dollar high under this arrangement. Part of their problem is their inability and unwillingness to face the problem of labor cost. They signed an agreement last year with a 7 percent pay increase plus a cost of living increase which means a man year now costs \$14,000. At this rate, year manpower with a 12 or 14 percent escalation could cost \$28,000 in seven years. These labor costs and fringe benefits are creeping into the bureaucracy. You can't have a postal service spending this kind of money and running up the rates. There is no incentive on their part to contain costs because of the public utility concept.

We have seen the charade on pay increases between A.T. & T. and the union. In the end, they go to the FCC with their new rates and get them approved.

With this philosophy there is no incentive for the postal service to cut costs. I think they need supervision and I don't think they are getting it.

On the budget side, I think Congress should play an important role in keeping rates proper. I would see that legislation that would incorporate those things and get rid of the Board of Governors which have demonstrated they are incompetent. Then, we should get Congress more directly into the act. The loophole you left yourselves in the 1970 law was to see to it that rates are kept where the judgment of the Congress feels they should be. I think we need those improvements.

Mr. HANLEY. Thank you very much.

May I ask, were you a supporter of the Postal Reorganization Act? I assume you were in this business back then.

Mr. MYERS. I did not testify so I don't have to say anything on that. I suppose I was and I certainly didn't oppose it. I was naive enough to believe the Kappel Commission Report. It seemed to be the thing to do. There are big changes going on in communications that nonetheless need to be considered.

I think the movement of checks and bills and so on by magnetic tape is not far away. Each check that goes into the system now costs about 18 cents and there are about 30 billion checks which is about

\$5 billion a year. If you could do it for mills per check, I suspect they will be moving that way.

Mr. HANLEY. This is one of the points I have emphasized with regard to the subsidy. We are rapidly moving to the electronics area from the standpoint of transfer of funds, which will produce a decline in volume.

Mr. Myers, in your testimony, with regard to your support of the abolition of the Board of Governors, you mentioned the Postmaster General should be required to appear before Congressional committees and if he could not produce, "he would be out." Are you suggesting then that the Congress be empowered to relieve the Postmaster General? Is that what you have in mind?

Mr. MYERS. No, the Board of Governors is now acting for the Executive Branch. The point is, if the PMG were confirmed by the Congress, the Senate, if he really didn't do a good job, there ought to be some way of bringing pressure to remove him or make him mend his ways. That body now is the Board of Governors and it is not an effective body.

Mr. HANLEY. You also suggest a proper subsidy formula. Do you look upon the subsidy portion of this legislation as proper?

Mr. MYERS. I think it is, up to 20 percent, which allows Congress, which is as close to the people generally as you can find in Government, to figure out what rates are reasonable in terms of the requirements of the citizenry. If the 2-cents-a-year increase in first class which will come about through the present arrangement is considered too high, then you could consider a raise in subsidy. If somebody kept an eye on the cost side, maybe that formula would be adequate and would be kept lower than the maximum you suggest.

There is a bad problem that has to be faced on the cost side which, if it were handled properly, would not require as big a subsidy.

Mr. HANLEY. I believe you suggested the Congress should have the ability to veto a labor agreement. That being the case, how do they truly have labor-management relations?

Mr. MYERS. They really don't. That is the problem.

Mr. HANLEY. Can you expand on that?

Mr. MYERS. Labor comes up and say what they want and the Postal Service says fine.

Mr. HANLEY. You say there hasn't been any bargaining at all?

Mr. MYERS. It has only been on the side of the unions. I don't think the Postal Service did any bargaining. They agreed to a 12 to 14 percent pay increase, if you call that bargaining. I think if Congress has nothing to say about the labor arrangements, then it throws out of kilter the whole business of subsidy. This is my objection to the public utility project. They agree to any labor demand and then expect the customers or the Congress to make up for the blunders. If you call that labor relations, I certainly don't. I think it is bad business.

Mr. HANLEY. You would be shifting completely into reverse with regard to the Postal Reorganization Act.

Mr. MYERS. I think it would have to be dealt with because of what they have done. For these people to keep their hands on the

postal service, they don't want to be embarrassed by strikes. So, they have no bargaining position.

Mr. HANLEY. That is very interesting.

Mr. MYERS. I think that is what has happened. If you have a different view, I would like to hear it.

Mr. HANLEY. I am not that intimate with the negotiations I wish Mr. Klassen were present to defend his position.

Mr. MYERS. I talked to him about that and he said, "Who said it is a bad agreement?" And I said, "I said it is a bad agreement."

Mr. HANLEY. While we are on the labor negotiations, how do you feel that the 1973 contract was out of whack insofar as the economy is concerned, taking a look at all other entities and the contracts negotiated? For instance, I think of the—off the top of my head—steel industry contract which was negotiated several months ago.

Mr. MYERS. That is right. That was after the end of all of the efforts for controls. I think that was under phase 2 or whatever.

Mr. HANLEY. I was talking about the contracts negotiated subject to the demise of wage and price controls.

Mr. MYERS. In a cartel situation, you do have higher settlements. But should we pick the worst examples? For the postal service to have the 7 percent pay increase plus cost of living (admittedly didn't want the cost of living to go quite this high) seems very generous with the taxpayers' money.

Mr. HANLEY. It is necessary to make an honest and objective comparison of what USPS has done with the private sector. You wouldn't find that kind of difference.

Mr. MYERS. I don't know which part of the private sector one has to analyze. Generally, I don't think people have been getting 12 or 14 percent wage increases a year, which the postal service has.

Mr. HANLEY. One of the great problems was the fact that wages were so compressed for so long and you know, up until 1967, the entrance salary was \$5,300 a year.

Mr. MYERS. But we are talking about 1973 and 1974.

Mr. HANLEY. But it has taken a period of time to bring it in line in accord with the 1967 Act.

Mr. MYERS. The Kappel Report in 1968 said it was ahead of comparable jobs in private business. It has really gotten out of whack, if you are talking about a 700,000 work force.
about a 700,000 work force.

Mr. HANLEY. Of course, the USPS has a problem of universality.

Mr. MYERS. There is no question in my way of thinking that in metropolitan areas, there should be a differential. I am not trying to take away from that. Postal workers should be paid a decent wage. I am saying the 12 to 14 percent will take them up to \$28,000 in 7 years and it is something to think about.

Mr. HANLEY. Now, again, with regard to your testimony on the bottom of page 5 that Congress "resume the responsibility for management and money," are you suggesting that we return to the old system where Congress sets the postal rates, appropriates the entire postal budget, sets salaries and fringe benefits?

Mr. MYERS. I think to the extent that those things do affect the

civil service, you should be concerned with those matters. We are talking of billions of dollars of expenditures. If you want to spend the money, fine, but it should be a conscious decision and not something soaking through the federal bureaucracy. Some people are saying you ought to cut the federal budget ten billion dollars when this kind of thing is going on, not to mention the problems you have with the social security system.

Mr. HANLEY. Incidentally, as I think back to 1967, that Commission did not conform with the statistics of the Bureau of Labor, with regard to the comparability of the private sector. What was the finding of that Commission?

Mr. MYERS. The comparability idea has turned out to be a disaster, too. The average GS-18 is supposed to make \$75,000 a year according to the BLS, which would have an interesting effect on the Civil Service salaries and Federal Budget.

Mr. HANLEY. Mr. Myers, on behalf of the full committee and the subcommittee, we appreciate your appearance here today, and hopefully, working together, we can unravel most of the shortcomings that prevail.

You know, it is annoying to many of us who sat here during the deliberations feeling the urgent pressure for reform of the United States Postal Department to now hear from many of the same entities, who pushed so hard back then, wanting us to shift gears and put this whole thing into reverse.

Mr. MYERS. I don't think the momentum has been so much that the problem is that great.

Mr. HANLEY. Momentum?

Mr. MYERS. Of the reform or change. The changes have not been so much that everybody would notice them. People in the field wouldn't know, as they didn't originally, if Congress played a larger rôle.

Mr. HANLEY. Again, our appreciation.

Mr. MYERS. Thank you.

[The prepared statement submitted by Mr. Myers follows:]

STATEMENT OF ROBERT J. MYERS, PUBLISHER OF THE NEW REPUBLIC
MAGAZINE

Dissatisfaction with the weather and the mail delivery is a fact of life. In 1970, four years ago, the effort to do something about the post office resulted in Public Law 91-375, creating the Postal Service as a government corporation with a "break even" goal. Four years later, it is clear that the reorganization has not succeeded in its twin goals of reducing costs and improving efficiency, for the very reason it was to correct—poor management. Fortunately Section 208 of that legislation states that "Congress reserves the power to alter, amend, or repeal any or all of the sections of this title." In the light of 20-20 hindsight, I would like to point up what has gone wrong and offer suggestions, which if pursued, might lead to constructive measures to assure these long elusive improvements.

First, there was the assumption in 1966, dramatized by a breakdown in mail delivery in Chicago, that the Post Office was in a "race with catastrophe." A combination of circumstances that were unique produced the Chicago spark that resulted in a radical reorganization instead of more modest improvements in a system that was actually doing all right. There was talk of creating a postal service for the 21st century instead of dealing with foreseeable problems.

Second, there was the assumption developed by the Commission headed by Mr. Fred Kappel, retired chairman of the American Telephone and Telegraph

and now Chairman of the Board of Governors of the Postal Service, that a 20 percent saving in costs was there for the taking with better management. Better management would come with a government corporation. The savings were largely to result from reduction of the labor force and investment in automated sorting and cancelling equipment. It is a fact, however, that despite billions of dollars in investment, the labor costs of the postal service actually rose last year to 85 percent from the previous years 84.6 percent. In short, labor costs are still what they were before reorganization as a percentage of total costs. The number of full time employees has slightly increased and the amount of overtime has soared.

Third, there was the belief that "politics" in the post office was the root of the evil. If one defines postal politics as the power relationship between the Congress and the Postal Service, there is more conflict, and a necessary conflict, then before the reorganization. If politics is defined as political appointments of postmasters, that has been eliminated. But it was not necessary to create a government corporation just to do that. "Politics" nonetheless was the rationale for the change to a government corporation, and to the present organizational structure of the Postal Service. Politics however defined will always be part of the postal picture.

The past four years show that the basic assumptions of the reorganization were flawed.

As the review of Congressional testimony in 1969 and 1970 will show, there were voices raised questioning the changes, suggesting more modest measures, under congressional control, to improve the Post Office Department. H. R. Gross (R., Iowa), for example, was one of the leading critics of Mr. Kappel's type of reform, saying that the reformers were actually destroying the post office "under the misguided notion they are saving it." He said: "I suggest that conversion of the postal service into a corporation and delegating congressional authority over postal revenues will create chaos, the disastrous consequences of which will live to haunt us, just as we are reaping the whirlwind from our delegation of authority over salaries of Members of Congress, top officials in the executive branch and Federal judges. I disagree with the concept of delegating authority to the executive branch to solve problems which Congress finds difficult or embarrassing. I am disturbed, too, by certain modern concepts of our form of government which requires giving away all power and authority of the legislative branch under the false guise of efficiency or economy. If we continue this reckless policy, the day will come when the people of the Nation will decide they no longer need a Congress."

It is ironic that the man who initiated the financial irresponsibility and ultimately unsupportable system of government high level pay raises was also the man responsible for the blueprint for postal reform. This, I suggest, comes from the public utility approach to government and the postal service, that is, just raise the rates, taxes, or deficits.

On the second point of management, not everyone thought the government corporation idea was sound. Mr. Jack R. Cole, President, Mail Advertising Corporation of America, said, "The idea of corporate infallibility is one of the great American myths. There is no reason whatsoever to believe that the Post Office would be more efficiently run by corporation types under the program recommended by the Kappel Commission than it could be run under the present organization structure."

It is interesting to note that the postal deficit in 1968 was \$4.22 per capita, and in 1974, if you consider the \$1.4 billion federal payment that the Postal Service now lists as income in its annual report, and the additional loss of say \$500 million, it will be closer to \$9 per capita.

In regard to "politics", we are now watching the government corporation taking one dubious step after another in planning and procurement. The Postmaster General in the face of mismanagement charges and undenied allegations of accepting fees from a firm doing business with the Postal Service, remains in office. On the latter point Section 1009 of the Act says "Personnel not to receive fees. An officer or employee of the Postal Service may not receive any fee or perquisite from a patron of the Postal Service on account of the duties performed by virtue of his appointment, except as authorized by law." Does this section apply to the Postmaster General?

The costs of the Postal Service are rising faster than the soaring cost of inflation. Part of this is because of the labor agreement of July 1973 calling for

a 7 percent pay increase for each of the next two years plus an unlimited cost of living increase. Mike Causey in his column "The Federal Diary" said that this contract is the envy of the Civil Service. Also, the Postal Service is now paying a higher percentage of health insurance than the rest of the civil service. As you know, in federal pay matters, each one percent increase costs now one half billion dollars. Increasing the federal share of health insurance will also be in that area. Should the Postal Service unilaterally set the pace for federal salaries and benefits? For as night follows the day, these arrangements will seep into the whole bureaucracy. Mr. Klassen defends this on the grounds that part of private industry does this, but comparing postal and government pay and working conditions to the private sector is imperfect at best. The point here is that an out of control Postmaster General can spread financial havoc in places beyond his own large service.

What might be done in a legislative way to correct or stem the worst abuses of the Postal Service? In a word, place it under regular government control. Only a few steps are necessary.

(a) Abolish the Board of Governors. This step has already been proposed by Rep. Charles Wilson (D., Texas). This group of neophytes stands between the Postmaster General and responsibility and accountability. The Chairman of the Board of Governors is responsible theoretically to the President. How many hours have the chairman and the President spent discussing this \$12 billion dollar per year enterprise, the basic communication facility of the nation, during the past year? The past five years? The Board of Governors, wanting no outside interference, likes it this way. Without the Board, the Postmaster should be required to report to the President regularly. Also, the Postmaster General should report regularly, and on request, to a joint Congressional committee with a savvy small staff. If the Postmaster General did not produce, he would be out, a victim of his own rhetoric. Future Postmasters would be appointed by the President, with congressional confirmation.

(b) Congressional budget control. Congress should decide on a proper subsidy formula. Postal policy in the act specified that rural post offices should be supported and that no post office should be closed because it ran at a deficit. Also, the Postal Service should be operated as a "basic and fundamental service provided to the people" which implies reasonable rates for the flow of goods and information. The Postal Service opposes such public subsidies "at this time" on the grounds of the break-even goal of the Act. That aside, they do not want to give Congress power over their budget. Before reorganization, Congressional budget control hampered operations because of the habit of voting postal funds in Committee A and not appropriating the money in Committee B. One would think Congress could work itself out of that infirmity. The point is that the Postal Service has shown itself to be incompetent in its approach to costs; it should not, for example, be allowed to conclude labor contracts without Congressional approval. For whatever its faults, Congress never got into the current type of excessively costly labor settlements. Congressional budget control would eliminate such actions. Median pay for postal workers is now \$14,000 per year. At the present rate of wage increases, that will double to \$28,000 in 7 years. What about rates then? What about competition, with or without repeal of the Private Express Statutes?

By making the Postal Service again a regular department of government, the private fiefdom aspects of its operation would be eliminated.

By resuming responsibility for management and money, Congress would correct the flaws of the present management of the Postal Service. The many necessary details of mechanization, standardization of letter sizes, cutting back on vulnerabilities to electronic banking and message moving, and so on, would be readily handled by an inspired management, inspired because they would realize that the President cared and that once again there was a visible budget boss, the Congress of the United States, overseeing the public postal service.

Mr. HANLEY. Our next witness this morning is Mr. Stanford Smith, president of the American Newspaper Publishers Association.

**STATEMENT OF STANFORD SMITH, PRESIDENT, AMERICAN
NEWSPAPER PUBLISHERS ASSOCIATION**

Mr. SMITH. It is nice to be here. May I suggest in the interest of saving time, I might summarize the statement that we gave you, if you would care to place it in the record. Then, we could use whatever time is available for discussion of the issues.

Mr. HANLEY. Fine. Without objection, your entire text will be placed in the record following your summarization.

Mr. SMITH. I think you know our organization and whom we represent and the reasons for our concern about the level of postal rates and postal service, so I will skip that part. I would be remiss if I didn't express officially our appreciation for the things you have done over the past year or more, to wrestle with the complex problems of postal rates in the interest of not only the people we represent, but many other mail users and organizations.

Mr. HANLEY. I appreciate that very much.

Mr. SMITH. The recent enactment deferring the phasing stage was a tremendous benefit to a great many people, particularly those in the rural areas who simply have no alternative but the postal service to get their daily newspapers. There are many thousands of people who have been benefited. Now, we come to the much more difficult and more complex problem of modernizing, shall we say, the Reorganization Act. We regard your bill as an excellent vehicle for that purpose and this subcommittee of the Congress is the right forum.

We have said on a number of occasions that the enactment of the Postal Reorganization Act does not mean that the Congress gave away its responsibilities that are the same as their responsibilities toward any other independent creature in the government and we are glad to see you dealing with that.

Specifically, my prepared statement deals with two aspects of the bill; the obvious major one of public service appropriations and the second, the amendment of the private express statutes. I can use the same words as I used one time before when I came before the committee—that there was a lot of wishful thinking associated with the obsession of developing a totally self-supporting postal service.

From the beginning, our concept is that it is a national communication system with an obligation to service every citizen. As we see it, it is an absolute fiscal and physical impossibility to break even and fulfill that responsibility to the public.

There are many, many proofs of this, as one looks at the management of the postal service, but suffice it to say the problem is one of identifying what part of those costs should be attributable to selling migratory bird stamps, registering aliens, maintaining 30,000 branch offices, serving rural routes, and that sort of thing. Only a realistic view can solve this problem.

If we recognize that the postal service as a communication system is a national asset of incalculable value, then we must take such steps as may be necessary to preserve the system, in the interest of every citizen and not just those who happen to use the mail for business or personal pleasure.

History teaches us some lessons in this context. In preparation for

these hearings, we got out the two major analyses of public service cost done under congressional auspices. Both happen to have been done on the Senate side, but they are bipartisan in nature. One was done under a Democratic chairman of the Post Office Committee and one under a Republican chairman.

The first one arrived at a public service cost estimate in 1952, a long time ago, of \$274 million or 13.1 percent of the total operating budget. The second one arrived at a public service cost of \$392.4 million or 17.3 percent of the total operation.

Our conclusion was that these public figures suggest the 20 percent figure in this legislation is not too far off the mark. It is a reasonable estimate to start this dialog which, I understand, is the main purpose here. One thing that concerns me a little bit in this provision of the bill is that the 20 percent that is in the bill, is a ceiling only and 0 or 1 percent is less than 20 percent, so if some way could be found to flush out that provision of the bill, it would be useful to provide a floor as well as a ceiling.

If this could be done by some device such as a public service provision it should not be less than 15 percent or more than 20 percent, you would have a range within which the Congress could act and fix it on the basis of total operating cost of the postal service for the previous fiscal year.

Now, I have mentioned briefly that our primary concern is the rural areas. We have presented testimony on this in great detail to the Postal Rate Commission—I might say, without significant result—but nevertheless, we have gone through the exercise. We just completed another survey on newspaper circulation in the mails which did little more than prove the accuracy of our testimony, both here and before the Rate Commission.

It showed that the percentage of newspapers in second class mail has declined from 6.2 percent in our 1970 survey to 5.4 percent in 1973. Back in 1966, it was 8.8 percent. I am sure you gentlemen realize that that looks to be an inconsequential percentage of the total newspaper circulation, except that it is not divided evenly across the country.

There are metropolitan newspapers that have virtually no circulation in mails at all. Our chart shows when you get to the smaller size newspapers, particularly those in the Great Plain States and sparsely populated areas, they have high percentages of circulation in the mails.

Among all newspaper dailies under 5,000 circulation, the average percent is 32.9 percent. This is a significant matter for small daily newspapers. In the 5,000 to 10,000 bracket, it is 20.9 percent. It is a significant figure and a group of readers who, in large measure, can't be reached except through the postal service under the present cost.

If the postal rates continue to go up, then the competitive pressures arise—and have already occurred in the urban and suburban areas—and the change is rapidly taking place from mail service to motor routes.

That is about all I will say for the moment about the public service aspects. I do want to emphasize as strongly as I can, our concern

about the private express statutes and the interpretation that the postal service is seeking to place on them.

It claims it would have the authority, if it so chose, to term a newspaper as a letter. That has never been done. We don't suspect anybody intends to do it, but it is a matter of concern to a great many newspapers that this sort of thing would be hanging over their heads, that at some point in the future, postal service might include newspapers and magazines under that definition. But it would be a total impossibility for the postal service to deliver 63 million newspapers every day and it is unrealistic for the postal service to contend it has authority to require something utterly impossible.

We are also favorably impressed by other provisions in the bill, including the revised procedure in changing rates and requirement of Senate confirmation of the Postal Rate Commission. I believe the other day the Chairman of the Postal Rate Commission indicated that 180 days would not be adequate for them to arrive at a decision, which is a grotesque state of affairs. The mail user is left in the position that after 180 days for the bureaucracy to consider the proposal for rate increases, it goes into effect and you have no recourse for getting a refund, if denied.

No such situation exists in any other regulated rate-making process that I know about. It hasn't happened, but it seems another threat that doesn't make a great deal of sense.

As the big problem of a final decision on rate increases voted by the Board of Governors or by the Postal Rate Commission as provided in your bill, we need more time to discuss this problem among ourselves. We want to study the record of these hearings. We want to have consultation with other interested parties before coming to a conclusion.

But let me say, it has been frustrating submitting testimony, answering numerous interrogatories, employing outside experts to analyze postal operations and all this at great expense. Our frustration reached its height in the final decision in the first rate case, as we do not believe our effort was given the serious consideration we felt was warranted.

There must be a better system. Part of the problem is the Rate Commission has only very narrow limits within which it can act on proposals of the Postal Service, which, at the very least, raises the question as to whether the taxpayers should bear the burden of that set up to do so little and take so long to do it and have everybody wind up irritated with the result.

I regret I don't have the magic solution to the problem, but I am one of the irritated ones. We do believe we have an obligation, as a representative of an interested party, to do anything we can to help you and if we don't have the answers to something you would like to know about, it is our duty to get it and we will do our best to get accurate information.

Now, we can discuss any aspect of this if you care to.

Mr. HANLEY. Thank you very much, Mr. Smith. We are most appreciative of your willingness to cooperate and assist us in this effort. Certainly, as a representative of a vast entity, you can make a meaningful contribution to our deliberations. May I ask, from your observations, when a rate increase is effected, is this usually passed on to the subscriber or is it absorbed by the newspaper itself?

Mr. SMITH. It is passed on to the subscriber and the net result is shown in our figures of declining circulation in the mails. We produced witnesses, newspaper publishers and newspaper witnesses, to recite what their actual experience with this was and the record showed newspapers' mail circulation had declined as the rates had gone up, and their total circulation had either remained constant or gone slightly up.

Mr. HANLEY. Have you personally had the experience of appearing before the Rate Commission?

Mr. SMITH. Yes, sir. I have.

Mr. HANLEY. Did you find that to be rewarding or frustrating?

Mr. SMITH. Just a part of the total frustrating experience. The most charitable thing I could say was they were relatively new and, therefore, excusably uninformed.

Mr. HANLEY. Amen.

[Laughter.]

Mr. HANLEY. Would you have any recommendation as to what aspects of the postal service should be defined as public service, the cost of which should be defrayed by the taxpayers?

Mr. SMITH. I would refer you to the itemization in those two Senate documents that I mentioned and also, something more recent, the Postal Policy Act of 1958, identified a considerable number of those items. The big cost items are the rural routes and third and fourth class post offices. It seems obvious to anyone that you cannot maintain 30,000 outlets and expect all 30,000 of them to take in as much money as they pay out. A prudent business decision would be to cut it in half, but that is not feasible under our system.

How you put a number on that, I think pretty much has to be an arbitrary estimate and the same thing would be true of the maintenance of rural routes. You couldn't send a rural mail carrier to every farm every day and expect that to be a break-even proposition. When it was first enacted, it was called rural free delivery and the word "free" was dropped for linguistics. Then there are numerous items, such as collecting money for charities, registering aliens, mail for the blind and nonprofit organizations, to which I have no objection, except it is a taxpayers' obligation and not necessarily one which should be paid by those who mail a letter, publish a newspaper or a magazine.

Mr. HANLEY. On the subsidy, it is difficult for me to understand the Postmaster General where he said, "All people don't use the mail; therefore, we shouldn't impose the financial burden on that taxpayer that might not use the mail." In saying that, he overlooked the universality of the U.S. Postal Service.

Mr. SMITH. There is no taxpayer who doesn't use the mail.

Mr. HANLEY. According to the Postmaster General, there is.

Mr. SMITH. He gets his tax return in the mail.

Mr. HANLEY. Very good. That is like saying there are a lot of people who prefer not to support our defense budget. We get a lot of mail saying, "By no means use one dollar of my tax money for defense." We would be walking away from a national interest if we accommodated that person. By the same token, we all, every citizen in this Nation, has something at stake when we talk about the U.S.

Postal Service. Our gross national product, our economy, our commerce, virtually all are dependent upon the operation of a universal system. That is rather disappointing.

Mr. SMITH. I suggest there is no popular entity of Government at any level that is so universally used as the postal service. There are many that are not used by some citizens, but the postal service is not one of them.

Mr. HANLEY. Mr. Ford?

Mr. FORD. These hearings have developed for us a startling story of the time consumed in doing nothing by everyone concerned. On the bottom of page 7 of your statement, you say:

We are uncertain about the best method of making final decisions on rate increases—whether by the USPS Board of Governors as now provided or by the Postal Rate Commission as provided in H.R. 15511.

What do you think the relative roles of the Rate Commission and the Board of Governors are at the present time, as you have seen it in practice? Who really makes the policy decisions?

Mr. SMITH. As it stands now, the Postal Service Board of Governors, by virtue of its proposals to the Rate Commission. As I mentioned earlier, the Rate Commission really has only narrow discretionary authority. It can rearrange the rates but it has very little range of change. Then, it produces the recommended decision which goes to the Board of Governors which has the final authority to implement it.

Mr. FORD. That is the way the statute rules indicate it is supposed to be played, but where is the decision really made? Have you been able to make or draw any conclusions as to which of those Boards, if either of them, is really exercising a collective decisionmaking process?

Mr. SMITH. If there is such a thing as a decision not being made by anybody, this apparatus more closely resembles that. It starts and continues of its own weight. It winds up close to what the Board of Governors asks for in the first place, as a practical matter. Perhaps that is as it should be. But there is so little the Rate Commission can do. The major decision is made by the Board of Governors.

Mr. FORD. Now, what bothers me is whether the Board of Governors actually makes any decision?

Mr. SMITH. Within the postal service, itself?

Mr. FORD. There has been a suggestion here that they don't have a great deal of time to get together. We find what actually happens is they look like a school board which is a captive of a strong-willed superintendent. While the board makes decisions, everybody in town knows who is running the school. I kind of had the impression, from what we have observed over there, that these fellows are spoon fed by staff people, answerable directly to nobody but the Postmaster General.

Mr. SMITH. I misunderstood your question, Mr. Ford. When you say internal in the post office, I have no doubt you are right. When I said the Board of Governors, that is the spokesman. I have no doubt that is the way it is. The management produces a document and undoubtedly submits it to the Board of Governors and says this is our best judgment of how the rate increases should be made, it

has been done by experts and kindly don't interfere with the experts.

Mr. FORD. What is your opportunity for input to the Board of Governors as distinguished from the Rate Commission? The Board, as you indicated, makes the final decision of what the initial request was. At what point do you have the opportunity to affect their decisionmaking process?

Mr. SMITH. Virtually none. We have communicated—some of our members have—with some of them and explained the problem.

Mr. FORD. No formalized way?

Mr. SMITH. No, sir. You are pursuing a line of thought, however, that has been running through my own personal head. We haven't resolved all this in our own association as to what the association would want to recommend, but your line of thought is close to what I have been thinking. Why do we need a Rate Commission at all?

Mr. FORD. It looks like that is so we can give people the feeling they are contributing something in the ratemaking process by letting them go to a hearing before the Commission that doesn't even make the decision.

Mr. SMITH. There are a lot of people in this room that have been through that process. It consumes enormous amounts of time and you are pretty sure what the answer is going to be when it comes back from the administrative law judge. Conceivably, a simplification of the procedure might be cheaper, more efficient, faster and of no greater harm to the mail users or the public than what we have now. Congress, I presume, is not interested in getting back to the postal ratemaking business so the best one could expect of the Congress is the oversight process of having a look at what has happened at periodic intervals and rates would only be one of the things that Congress would look at.

But as a representative of a substantial number of big mail users, we are just at sixes and sevens as to what to do with the ratemaking process. We can get lawyers, economists, publishers and guys like myself to go in and present testimony that we think is the most persuasive that we can produce, but the result is the same.

Mr. FORD. Thank you very much.

Mr. HANLEY. Thank you, Mr. Ford. Mr. Smith, you have said that perhaps we don't need a Rate Commission at all. You have said that you assume the Congress was not interested in getting back into the business of making postal rates. Do you have an alternative or something in mind?

Mr. SMITH. Not fully developed in my own mind and this is just my own personal thinking of the problem. We are dependent upon the management of the postal service, whether we like it or don't like it. We are permanently dependent on the management, whoever they may be. They have experts in certain places in the postal service and they always will. They have a financial expert; they have a ratemaking expert. Conceivably they could help set up, subject to something like the Administrative Procedures Act, a way under which interested members of the public present their views.

I dare say they would act in less than 180 days and if we didn't like it, our only recourse would be to the courts, if the statute laid

out the public service aspects and how the other costs were to be proportioned fairly among the users.

That may not be practical, but it is sort of in line with what Mr. Ford was speaking of as a problem that other witnesses have described. We have experienced the same thing. I say that we have been critical of the postal service management and undoubtedly will continue to be. But some of the criticism doesn't recognize the complexity of their problems. As I said a moment ago, it will be managed by somebody and we will be dependent on him.

Mr. HANLEY. In your statement, apparently prior to going to bat at the Rate Commission hearing, you sort of sensed it to be an exercise in futility?

Mr. SMITH. We might have affected it or our members by a factor of 2 percent and I am not sure it is worth the cost.

Mr. HANLEY. As you know, the present rate proposal has been on the burner within the Commission for about 10 months now, I think, dating back to last September. In response to a question last week, the Chairman projected as a target for disposition, about February of next year, which suggests something like 18 months or so in total. As I mentioned, I think on the basis of the present fiscal status of the USPS, in the event that the subsidy provision of this legislation is not enacted in the law, then once the present rate case is disposed of, right on its heels will be another proposal for a rate hike.

So, we go on and on, and as I said, it appears on the basis of performance that since 1970, rather than the Rate Commission setting rates, the Postal Service itself is setting rates, working with the temporary provision in the interim.

It is inconceivable to me that the Rate Commission is going to take a position contrary to the temporary rate accommodation the entity is now using. You wonder whether or not we really should have a Rate Commission.

The Postmaster General, in response to a question, said he felt it was unnecessary and would prefer it to be in-house.

Of course, that is understandable.

[Laughter.]

Mr. HANLEY. Obviously, something has to be done in this area. I have a few prepared questions here, Mr. Smith, that we would like to have answered on the record. You indicated a decline in newspaper mail volume of 35 percent since 1966. At the same time, the circulation has increased. What was the increase in general circulation? If you don't happen to have the figure, you can provide it for us.

Mr. SMITH. I will.

[The following was furnished:]

For the period 1966-1973, total U.S. daily newspaper circulation increased by 2.9 percent while newspaper circulation in the mail decreased by 35 percent.

Mr. HANLEY. In the interest of time, we have several other questions here which the staff will direct to you and if you will be good enough to provide the answers, we would appreciate it.

Mr. SMITH. And any others in the future, the same offer.

Mr. HANLEY. I appreciate that and again, our gratitude for your appearance this morning, Mr. Smith.

[The statement presented by Mr. Smith follows:]

STATEMENT OF ANPA PRESIDENT STANFORD SMITH

We appreciate the opportunity to be here today to discuss the fundamental public issues embodied in H.R. 15511 dealing with the organizational and financial operations of the U.S. Postal Service and the Postal Rate Commission.

For the record, let me state that my name is Sanford Smith. I am President and General Manager of the American Newspaper Publishers Association, the national organization of daily newspapers with more than 1,100 members having more than 90 percent of the total daily newspaper circulation in the United States. More than half our members have daily circulations under 25,000 and about three-fourths of our members have daily circulations under 50,000. These are the newspapers which face the most severe problems of delivery to subscribers by mail, as I shall show in this testimony.

It is a pleasure to meet again with this Subcommittee. At the outset, we want to commend you and express our appreciation for your continued attention to the public stake in the operations of the U.S. Postal Service. Creation of the quasi-independent status did not eliminate Congressional authority for the same kind of supervision the Congress gives all other independent agencies, and we are pleased that this Subcommittee is overseeing U.S.P.S. in such a responsible fashion.

We regard H.R. 15511 as an excellent vehicle to bring about the kind of discussion among Postal Service officials, Postal Rate Commission members, mail users and the general public that can resolve some of the difficult problems confronting all of us. We regard this Subcommittee of the Congress as the ideal forum for such consideration.

My comments today will deal mainly with the amendment of Section 2401 (b) of Title 39, United States Code, in Section 1 of the bill, and the revision of laws relating to private carriage of letters as covered by Section 7 (a) Chapter 6 of Title 36, United States Code, in Section 7 of the bill.

I have said to this Subcommittee before and will say again that we fear there has been more than a little wishful thinking associated with the obsession to develop a totally self-supporting postal service. From the beginnings of the Republic, our concept of the postal service has been that it is a national communication system with an obligation to serve every citizen, regardless of whether he lives in a metropolitan area or on a rural route. The original words Rural Free Delivery embody the concept of a national obligation to serve the citizen in rural areas.

I mention this specifically because in some respects this concept is incompatible with the idea of postal revenue paying all the costs of such a national communications system. One reason is that an enterprise totally dedicated to balance its expenses and revenues could never afford to maintain such costly daily service in sparsely populated rural areas, nor could it maintain more than 30,000 branches, as the U.S. Postal Service does to serve many purposes for all citizens everywhere.

Only a realistic view of the necessity of maintaining the Postal Service as a national public service can solve this problem. This communications system is a national asset of incalculable value. Its existence must not be jeopardized. We are confident the Congress intended to assure its continued existence and so indicated in the Postal Reorganization Act. The costs of preserving it should be fairly apportioned, partly to mail users and partly to the taxpayers generally. We believe legislation in the general framework of H.R. 15511 offers the only hope of restoring reasonable concepts to postal operation.

When confronted with this kind of problem, history can often teach us valuable lessons and shed light on the permanency of many fundamental facts. The fair apportionment of public service costs of the Post Office has been a vexing problem since the beginnings of the Republic. However, no Congressional body has ever determined that there are no public service costs which cannot be fairly apportioned to the four classes of the mails but instead should be paid by the Treasury to recognize the public service aspects of the total system.

Two major efforts to determine the amounts of these public service costs were made by the Senate in the decade of the 1950's. Both efforts were bipartisan in nature, and one was conducted under a Republican Chairman of the Senate Post Office Committee and one under a Democratic Chairman. Both were termed Citizens Advisory Councils.

The first Council, when Senator Carlson (R-Kansas) was chairman of the Senate Post Office Committee, engaged the services of Price Waterhouse, and for fiscal year 1952 they estimated these public service costs amounted to \$274 million or 13.1 percent of total operating expenses of the Post Office for that fiscal year.

The second Citizens Advisory Council, when Senator Johnston (D-S.C.) was its chairman, enumerated public welfare costs of the Post Office Department in fiscal year 1955 which added up to a total of \$392.4 million or 17.3 percent of the total operating expenses for that year. In addition, the report enumerated many other items of "hidden costs" of postal operation without attempting to place a dollar value on them because accurate information was not available. Nevertheless, the report said such costs do exist as a part of the operation of the postal system and should be compensated for from the Treasury. The history of the public service concept was clearly set forth in the report of the Citizens Advisory Council to the Senate in 1957. This brief history is attached to my statement as Appendix A.

We believe these studies two decades ago confirm that the 20 percent allocation to public service in H.R. 15511 is a conservative figure, especially when we consider those public service costs which previous studies said could not be accurately calculated.

We believe that if proper accounting is made of the public service aspects of the postal system, then and only then will we have the true picture and a proper basis for determining the amount of revenue needed to meet the actual cost of each of the several classes of mail.

The provision in Section 1 of H.R. 15511 to reimburse the Postal Service each fiscal year for public service costs by an amount not more than 20 percent of the total operating expenses of the Service for the immediately preceding fiscal year recognizes this very essential fact. For reasons already mentioned we feel that the figure of 20 percent of the total operating expenses is a realistic figure. However, it is set forth in the bill as a ceiling. We think it would be desirable also to have a floor below which reimbursements should not be allowed to fall.

Public service costs have always been associated with the postal system, they always will be, and it just and reasonable that they be recognized as such and paid for out of the Treasury every year within reasonable tolerances to recognize minor fluctuations from year to year. One way to accomplish this would be to provide that the public service appropriations shall be not less than 15 percent nor more than 20 percent of total operating expenses of the Postal Service for the previous fiscal year.

Our principal concern over such rapidly increasing postal rates while service deteriorates lies in the necessity for many newspaper readers, particularly those in rural areas, to depend on the mails to receive their daily newspaper. I testified before this subcommittee in June 1972 that we were in imminent danger of pricing the daily newspaper beyond the reach of readers on rural routes, despite the unsatisfactory level of service. We contend that it does not serve the best interest of the Postal Service to price itself out of this daily volume of business which would continue assured if the service were reliable and the pricing were reasonable.

Newspapers have incurred postal rate increases of about 170 percent since the new Postal Service was created in 1970. This has imposed inordinate burdens on newspaper managements in pricing mail circulation, particularly when readers so often report that they may receive no newspaper for three days and then receive three newspapers in the same mail. This kind of service does not justify the pricing policies which have been followed, even if the mission of the Postal Service were not oriented toward public service but only toward revenues.

ANPA has recently completed another survey (Appendix B) of general daily newspapers in the mails. The results of this study bear out our predictions before this committee and before the Postal Rate Commission. In my 1971 testimony at the Rate Commission in R-71-1, I suggested the Postal Service had mis-read the impact of past postal increases on general daily newspapers and I said, in part, "we contend that increases of the magnitude presently proposed will increase the flight of newspapers from the mails to other means of handling."

Our latest survey shows the percentage of U.S. newspapers in second-class mail has declined from 6.1 percent in the 1970 survey to 5.4 percent in 1973.

The percentage of newspapers in the mails in 1966 was 8.8 percent. From 1966 to 1973, mail circulation decreased 35 percent or an average 5 percent a year over the seven years. This has taken place while total newspaper circulation has steadily increased.

The survey also shows that newspapers are still performing many costly services for the Postal Service in handling their second-class mail while paying full rates for services not rendered. We think this is unfair and should be reflected in the rate structure.

The evidence of declining numbers of newspapers in the mail is overwhelming. The U.S.P.S. is now losing daily newspaper business to competitive private delivery in all except the sparsely populated areas. Motor routes are slowly taking over in urban and suburban areas providing the service that is needed; i.e., usually 2 a.m. to 6 a.m. for morning newspapers and 1 p.m. to 5 p.m. for afternoon newspapers, and at costs per copy under those now proposed for second-class mail. Once this business is lost to the Postal Service, it will be lost forever.

While the overall percentage of newspaper circulation in the mails has continued to decline, our survey also shows continued dependence on the mails by many small daily newspapers and their readers, particularly those on rural routes. More than half of all the newspapers in second-class mail go to readers on rural routes. Newspapers under 5,000 daily circulation still depend on the mail for more than 30 percent of their circulation, and newspapers of 5,000 to 10,000 daily circulation depend on the mail for more than 20 percent of their circulation.

These smaller daily newspapers and their readers have no feasible alternative to the Postal Service. Therefore, they are dependent on a recognition of the embedded public service costs in calculating fair and equitable second-class postal rates. For these hundreds of newspapers and thousands of their readers, this legislation offers their only real hope to preserve daily newspaper service.

Turning now to the revision of laws relating to private carriage of letters, ANPA is 100% in favor of the provision in H.R. 15511 to exclude newspapers, periodicals, etc., from the definition of a letter. This is just what we said in a letter March 14, 1974 to Mr. Louis A. Cox, General Counsel of the U.S.P.S., in response to U.S.P.S. proposed changes in regulations under the Private Express Statutes.

We believe that Congress, not the Postal Service or the Postal Rate Commission, has the right to define what is or is not a letter subject to the postal monopoly. The U.S.P.S. Board of Governors' report to the President and the Congress June 29, 1973 itself specifically recognizes that newspapers and periodicals have never been considered letters. That same report states that "the Private Express prohibitions have historically centered on letter mail. They have been held not to extend to the private carriage of periodicals and undressed circulars."

The Postal Service could never distribute 63 million daily newspapers every day in the time frame that is necessary; that is, delivery of a morning newspaper the morning of publication and of an afternoon newspaper the same afternoon. The operational schedules of the Postal Service are just not suitable for delivery of all daily newspapers, and it is unrealistic for the Postal Service to contend it has the authority to require something which is impossible.

Only a statutory recognition of the exemption of newspapers and periodicals from the Private Express Statutes can provide permanent assurance of this freedom for publishers. We urge that this provision in H.R. 15511 be adopted intact.

We are also favorably impressed by other provisions in H.R. 15511, including the revised procedure to extend the waiting period for temporary changes in rates and the requirement of Senate confirmation of Postal Rate Commissioners.

We are uncertain about the best method of making final decisions on rate increases—whether by the U.S.P.S. Board of Governors as now provided or by the Postal Rate Commission as provided in H.R. 15511. There are other alternatives which may be advanced by some witnesses at later hearings. We intend to study this question further, consult with our most knowledgeable members and review all testimony before this Committee. We are confident that whatever provision you finally approve in the pending legislation will recognize the enormous difficulties which we and other mail user organizations have encountered under the present system. It has been a somewhat frustrating experi-

once—submitting testimony, answering numerous interrogatories, reviewing voluminous conflicting statements, employing outside experts to analyze postal operations with which the public can not be expected to be familiar—all at great expense. Our frustration reached its height in the Final Decision in the first rate case, as we could not believe our effort to submit valid evidence had been given the serious consideration we felt warranted. There must be a better system.

We stand ready to supply any additional information that may be useful to the Congress pertaining to daily newspapers in the mails. If we do not have the information you need, we will do our best to get it through research or otherwise. This is our duty and we conceive it also as an obligation by us to the public as this Committee seeks to reconcile the interests of the Postal Service, the mail users and the public generally. We commend you in the highest terms and offer our continued support.

[Excerpt from Report "The Post Office as a Public Service" by Citizens' Advisory Council to Senate Post Office Committee February 26, 1957]



Appendix A

HISTORY SUPPORTS THE PUBLIC SERVICE CONCEPT

Our Post Office is older than our Nation. Even before the Declaration of Independence was framed, the Continental Congress legislated on postal rates. Significantly, this first American postal rate legislation was a REDUCTION of 20 percent in the rates imposed on the Colonies by the British Parliament. The Continental Congress made it clear that its motive was not revenue but to provide a communications system which would aid in building a Nation. That service came first and revenue second was made plain in these words:

"If the necessary expense shall exceed the produce, the deficiency shall be made good by the United Colonies."

Thus the British notion of a postal service designed primarily to raise revenue was summarily rejected in favor of a service concept.

1794

The novel American idea of a Post Office designed primarily to serve the public was put to an early test. The infant Republic soon found itself heavily in debt, and budget balancing became imperative. So it was in 1794 that the Congress of the United States attempted to meet the fiscal emergency by deciding that new postal routes would be established only if they produced revenue equal to their cost of operation. This was the first effort to put the Post Office on a pay-as-you-go basis. It is noteworthy that the effort failed, just as the same thinking in modern dress has failed throughout our history. The public protested violently. Settlers moving Westward demanded mail service as a right. Progress was being impeded by the effort to make the Post Office pay its way.

Reflecting the will of the people, Congress reestablished its "service first" concept by an 1814 law which read:

"All post roads necessary to furnish mail communication to country towns which have no mail were exempt from paying their own way."

1844

Congress decided to take a new look at the postal service, by establishing a Postal Commission with the responsibility of determining the real purpose and value of the service. This Commission's final report rejected the self-sustaining theory, and again endorsed the public service concept, as follows:

"The United States postal service was created to render the citizen worthy, by proper knowledge and enlightenment, of his important privileges as a sovereign constituent of his government; to diffuse enlightenment and social improvement and national fellowship; elevating our people in the scale of civilization and bringing them together in patriotic affection."

Congress promptly accepted this philosophy, and in 1845 reduced mail rates substantially. The result was to double mail volume in a five-year period.

1851

This experience led to another rate reduction in 1851. This law again buried the pay-as-you-go philosophy by stating firmly:

"The Post Office is primarily a service organization."

The Postal Act of 1851 clearly set forth the philosophy that the Post Office was primarily for "public service." The law was designed to reject definitely two previous concepts that had proved to be a handicap to the growing republic. The first was the "profit basis" of charging for postal service and was a carry-over from the English concept of a post-office that existed primarily to produce revenue. The second was the "pay-as-you-go" policy then called "Service Limited to Revenues Received." Under this policy of a "balanced" budget, service fell to such a low estate that the public requirements were impossible to meet, and as a consequence revenues fell. The Act of 1851 was designed to put new emphasis on a policy of "service first" in direct contradiction to the disproved philosophy of a "pay-as-you-go Post Office."

1869

Nor has this service concept been limited to Congress. While many heads of the Post Office Department have urged that the service pay its way, this view has been by no means unanimous. Postmaster General Creswell took office in 1869 with the conviction that the Post Office should be self-supporting. Two years later he had made a complete about-face; and in his report to Congress he spelled out the distinction between the service motive of the Post Office and the profit motive of a private business:

"The natural policy of private companies is to extend facilities slowly and only to profitable points; to let their business augment slowly and to reach large profits from a small number of messages, while a Government system, managed in the interests of the people, pursues exactly the opposite course."

1889

Similarly, Postmaster General John Wanamaker told Congress in 1889:

"The Post Office is not a money-making enterprise. It is not intended to be, and it is a mistake to expect it to be self-sustaining until it is fully perfected...Why the people should be expected by direct tax to supply annually all the money needed to maintain and extend the postal service, I cannot see. I cannot see any more reason for this than for a direct tax levy to cover the cost of ships for the Navy or to feed and clothe the Army."

Again, in 1920, Postmaster General Will Hays said:

"The Post Office is not for profit nor for politics, but for service."

1954

As recently as 1954, Congress took another look at the question of whether the Post Office is primarily a public service, or primarily a business. In the 83rd Congress, the Senate unanimously adopted Senate Resolution 49, authorizing the establishment of an Advisory Council. This group, commonly known as the "Carlson" Committee, reported on its investigation in 1954, urging that Congress adopt a policy resolution, the first plank of which read as follows: "Be It Resolved, That the Post Office Department is fundamentally a public service to the people of the United States and should be so considered."

1955

Said Senator Olin D. Johnston on October 13, 1955 in an address in Chicago:

"That the issue is bipartisan is best evidenced by the unanimous approval given both House and Senate resolutions in the last session of Congress to further investigate the postal service. I can assure you we are not taking our tasks lightly. The Congress has refused to be stampeded into hasty and ill-advised action. It stood firm in the face of the severest pressures."

The historical record is clear. For 165 years, Congress has repeatedly followed the public service concept. The attitude has been that the postal service is worth what it costs, even in these modern days when costs have risen substantially. The Continental Congress set the pattern in 1775, and Congress has followed it ever since.

Appendix B

ANPA-ICMA SURVEY OF DAILY NEWSPAPERS IN SECOND-CLASS MAIL IN 1973

Circulation Group	No. of Newspapers Replacing	Total Circulation	Total Mail Circulation	(a) In County Zones 1 & 2		(c) Other Zones	Pct. of Circ. in Mail	No. Copies Delivered to Out-lying P.O. Routes	Copies Delivered to Star Routes	"Outside" Mail Routes (Any Postal Zone)	Mail Ctrc. on Rural Routes
				(b) Total	(c) Total						
Up to 5,000	Morning 8 Evening 54 Subtotal 62	31,978 197,912 229,890	10,225 65,423 75,648	5,746 39,320 45,066	2,415 16,677 19,092	2,958 8,785 10,843	32.0% 33.1% 32.9%	337 11,939 12,276	1,265 275 1,540	1,544 983 2,527	4,197 30,193 34,390
5,000 to 10,000	Morning 20 Evening 182 Subtotal 202	133,929 1,329,948 1,463,877	55,615 219,659 275,274	30,811 130,754 161,565	17,666 81,802 99,468	4,572 32,029 36,601	41.5% 19.8% 20.9%	7,982 32,027 40,009	4,791 6,566 11,357	1,376 5,896 7,272	31,319 131,613 162,932
10,000 to 25,000	Morning 41 Evening 267 Subtotal 308	730,518 4,402,596 5,133,114	131,349 373,028 504,377	63,851 124,201 188,052	51,805 166,423 218,228	15,613 71,163 86,776	17.6% 8.5% 9.8%	35,147 44,123 79,270	4,756 8,545 13,311	4,840 18,122 22,962	70,243 177,410 247,653
25,000 to 50,000	Morning 51 Evening 140 Subtotal 191	1,861,450 4,905,131 6,766,581	235,744 170,670 406,414	51,576 39,262 90,838	155,743 95,535 251,278	39,184 35,328 74,512	12.7% 3.5% 6.0%	62,328 3,359 65,687	20,016 3,359 23,375	16,741 4,004 20,745	166,893 73,237 240,130
50,000 to 100,000	Morning 40 Evening 49 Subtotal 89	2,656,711 3,183,611 5,840,322	278,986 60,289 339,275	45,229 9,438 54,667	206,769 36,462 243,231	25,653 14,399 40,051	10.5% 1.9% 5.8%	91,592 1,996 93,588	29,494 1,262 30,756	8,057 3,985 12,042	181,074 31,687 212,761
Over 100,000	Morning 52 Evening 49 Subtotal 101	14,912,226 10,911,486 25,823,712	697,875 123,670 821,545	28,082 3,095 31,177	425,215 58,316 483,531	210,435 63,740 274,175	4.7% 1.1% 3.2%	98,129 8,750 106,879	86,659 2,915 89,574	33,674 4,125 37,799	326,955 41,125 368,080
TOTALS	953	45,258,296	2,482,551	571,365	1,316,878	519,958	5.4%	411,873	170,474	103,529	1,267,656
Results of Survey in:	1970	42,678,775	2,611,953	554,296	1,405,162	682,195	6.2%	407,316	156,740	151,820	1,180,164
1966	956	42,916,877	3,788,861	—	—	—	8.0%	868,474	—	174,563	—

Mr. HANLEY. Our next witness is Mr. Alexander Hoffman.

STATEMENT OF ALEXANDER HOFFMAN, VICE PRESIDENT, DOUBLEDAY, CHAIRMAN, ASSOCIATION OF AMERICAN PUBLISHERS POSTAL COMMITTEE, ACCOMPANIED BY RICHARD M. SCHMIDT, JR., COUNSEL

Mr. HOFFMAN. With me is Mr. Richard Schmidt.

Mr. HANLEY. It is nice to have you with us, Mr. Schmidt.

Mr. HOFFMAN. The Association of American Publishers has some 260 firms and publishing organizations in its membership. The members include not only commercial book publishing firms, large and small, but also book clubs and the publishing departments of religious denominations. Our members do about 80 percent of the book publishing volume in the United States.

We would like to express our appreciation for the efforts of both the Subcommittee on Postal Service and the Subcommittee of Postal Facilities, Mail, and Labor Management during the 93d Congress to exercise effective oversight of the U.S. Postal Service.

We believe that the joint report of these subcommittees, issued on April 2 of this year, has effectively prepared the way for the much needed Postal Amendments bill which you are now considering.

First, we would like to support strongly the overall objectives of this bill—to reinstate a greater recognition of the public service aspects of the Postal Service and to strengthen some of its key operating procedures in light of actual experience to date since the enactment of the Postal Reorganization Act.

The economics of the postal costs in the book field is quite different than in other industries. I want to make that clear at the outset. Except for a few special cases, such as the shipment of teacher's examination copies of textbooks, postage costs are not borne by the publishers, but by the customer, whether the customer be an individual, a book store, a school, or a library. Almost 50 percent of the shipments are to schools, libraries and college stores.

Thus, the more that schools, libraries and individuals have to spend for postage, the less they have to spend for educational materials and the matter is particularly urgent in this present period of budgetary stringency. For schools and libraries, it comes out of the total number of books they can acquire.

We do have a few suggestions to offer for your consideration on specific sections of the bill, and I will mention these briefly in order. I will also speak briefly to some of the points raised by the U.S. Postal Service in the testimony before this subcommittee by General Counsel Louis Cox on July 9th, 1974.

We strongly support section 1 which provides the authorization for an appropriation to the Postal Service each fiscal year of not more than 20 percent of the total operating expenses for the Postal Service for the immediately preceding fiscal year.

Experience to date with the U.S. Postal Service has unfortunately shown little or no actual realization of the greater efficiency that had been the hope of one and all in depoliticizing the Postal Service. As we are all painfully aware, service has deteriorated while rates have escalated at an alarming rate.

We would all hope that the operational problems can be solved and that increased efficiency can be obtained. In the meanwhile, however, continued adherence to the breakeven concept adopted by the Postal Reorganization Act appears to be strongly at odds with what we understand has been the consistent intent of Congress for many years.

Effective widespread dissemination of information and educational and cultural materials is certainly basic to a free democratic society, and it seems eminently reasonable to recognize the legitimacy of this obvious public service aspect of the Postal Service in concrete financial terms so that the cost of distributing these materials not shrink their audience to a degree which impairs the public awareness necessary to effective functioning of a free political and economic system.

We believe an efficient and low-cost Postal Service must be viewed as a basic necessity of our society—just as much so as police and fire protection. If that is true, you cannot then reasonably treat the operation of the Postal Service in the same straight profit and loss terms appropriate to a private sector commercial operation.

Obviously, you want to obtain the greatest efficiency possible in its operation, and provide maximum incentives to its management to realize efficiency.

However, you must also see to it that the greater public good is not sacrificed to the uninhibited exercise of a straight cost accounting approach to the setting of postal rates.

The proposal to authorize a public service appropriation of up to 20 percent of the operating expenses of the Postal Service is consistent with both good public policy and past experience. It is certainly to be hoped that any public service appropriation could be reduced as a result of increased efficiency, and it is wise not to attempt a fixed level for the appropriation which might tend to vitiate progress toward increased efficiency.

We do not believe the Postal Service's contention is warranted that it would be difficult to live with the uncertainty of this appropriation in light of their present and continued ability to request whatever emergency appropriation may be necessary to cover differences between expenses and anticipated income.

We support the proposal in Section 5 that the members of the Postal Rate Commission shall be appointed by the President, by and with the consent of the Senate. Members of almost all other commissions are subject to this review, and we can see no reason why this should not be true of a commission as important as the Postal Rate Commission.

Assuming the adoption of section 5, we also support the proposal of section 3 that the decisions of the Postal Rate Commission concerning rates not be subject to further review or modification by the Postal Board of Governors.

From an administrative law standpoint, the existing law is a unique measure in that it allows the Board of Governors, which is really the plaintiff in the case, to make the final judgment. Given a Postal Rate Commission fully comprised of professionally qualified members and a reasonable average term of service to insure adequate

continuity, they should be able to function in their primary rate making role in the same independent manner as other regulatory commissions.

We would suggest that you consider retaining the present qualified ability of the Board of Governors to review classification decisions reached by the Postal Rate Commission. Classification questions are often extremely technical and have great operational ramifications for both the Postal Service and mail users.

It may be difficult in practice for the Postal Rate Commission to maintain constant expertise on its staff to be adequately informed on all the technical aspects of classification decisions. In this area, we believe there may be validity to the Postal Service contention that the limited authority of the Board of Governors to reject, protest or modify decisions of the Postal Rate Commission provides a useful safeguard which should be retained.

We strongly support the proposals in section 4 to extend from 90 to 180 days the period before the Postal Service can put temporary rate increases into effect, and the proposal to limit temporary rate increases to a maximum of 10 percent. We do not believe the Postal Service's contention that they cannot live with such limitations in today's inflationary economy. The Postal Service should have as great a requirement as anyone else to learn the art of long-range budgeting. Since the Postal Service affects virtually every citizen in the country, it would seem to be something short of setting a good example in the Government's efforts to control inflation to have it within the power of the Postal Service to increase rates at the clip of 33½ percent every year. Finally, while permanent rate change decisions may not be attainable within 180 days, there is certainly nothing wrong with this modest increased incentive to speed up the present snail's pace of rate proceedings.

We support the proposal of section 6 to make the provision of the Administrative Procedures Act applicable to the Postal Service.

We strongly oppose the proposal by the Postal Service that 39 U.S.C. §3624(a) be amended to provide for informal "Notice and Comment" rulemaking under section 553 of Title 5 rather than formal adjudication under sections 556 and 557 of that title for classification matters. As we have mentioned above, classification changes are often highly technical and once made can have major and long-lasting effects. We see no need met or public purpose served by eliminating the present procedural safeguards against undesirable changes.

Finally, we strongly oppose the proposals of the Postal Service that the requirement of 39 U.S.C. §3863 for uniform rates for special rate fourth-class mail should be restricted to the case of the library rate for material specified in former section 4554 (b) (2) and (c) of title 39. To the best of our knowledge, the Postal Service's contention that publishers have responded to the present uniform rate for books by using the services of private carriers for short-haul shipments and using the Postal Service for long-haul shipments is completely without foundation. We have checked with as many major publishers as possible in the limited time since learning of the proposal and have not found a single instance where this has

been or is being done. Further, we can think of no practical reason why any publisher would do this.

There was a bipartisan consensus that there should be uniform rates for books. As stated by Senator Mansfield:

These uniform rates serve important educational and cultural purposes, insuring that all citizens, libraries, and educational institutions have the same access to these materials, no matter where they may be located.

We are dealing here with the Postal Service not as mere transportation device, but as a vital link in the distribution of educational and cultural materials.

As stated by Senator Scott:

The importance of library materials specifically was first recognized when Congress, in the 1920's, established, by law, the so-called library rate covering the exchange of library materials between libraries, and between libraries and their patrons. A second special factor for educational materials, started in 1938, applied a nation-wide flat rate for books at the same level as that for the editorial content of magazines and newspapers. Under this rate, which has been continued by successive acts of Congress, the buyers of books, educational films, music, and other educational and cultural materials, pay the same transportation charges for their purchases, whether they live near the large publishing centers of the east and mid-west, or whether they live in the most remote areas of the continental or off-shore states.

Senator Scott went on to point out that this amendment did not go as far as the Kappel Commission recommended, and stated:

Our amendment, however, does preserve the essential element of national uniformity. It is, of course, our hope that members of the Postal Rate Commission will take carefully into account the historical recognition of the importance of educational materials when they are faced ultimately with this rate decision.

This leads us to suggest that you consider one additional provision to H.R. 15511. We suggest that you embody in this bill language which would strengthen and make unmistakably clear Congressional intent on matters of national policy that apply to the operations of USPS. We recognize that this entire bill is designed to do that, but feel that it would help insure future adherence to certain policies of great importance if section 3622 of the statute which sets policy guidelines for the Postal Rate Commission in the establishment of rates had added the following provision:

(8) The educational, cultural, scientific and informational value to the recipient of mailed materials.

Without getting back into the specifics of rate making, Congress must continue to set public policy in a manner that makes it impossible of misinterpretation by the Postal Service and Postal Rate Commission, and must maintain clear authority to insure that its policies are carried out.

Mr. HANLEY. Thank you very much, Mr. Hoffman, for your fine testimony. Have you personally appeared before the Rate Commission?

Mr. HOFFMAN. I personally have not.

Mr. HANLEY. Who on behalf of you?

Mr. SCHMIDT. We appeared in all of the hearings so far in the first rate case and the second rate case. Our witness has been Robert Fraze, an economist. Lawyers have been there daily.

Mr. HANLEY. I take it that during the course of whatever past colloquy, your association presented testimony concerning the Rate Commission and that you have been unable to sell, even though it has all the merit in the world, your position with regard to the educational, cultural, scientific and informational value? Has it been a hard sell in the rate case?

Mr. SCHMIDT. Yes. It has. The administrative law judge said there was "some evidence" that Congress had this intent. I think there is quite a bit of evidence in that direction, but it is apparently not clear enough and we are asking Congress to reiterate what we think is its original intention. When you look at statements from both sides of Congress, I think it is clear that Congress intended them to take this into consideration, but apparently because it wasn't spelled out specifically, we couldn't obtain the consideration we thought we deserved.

Mr. HANLEY. In my judgment, the intent of Congress is quite clear in this regard, and I think you offer an excellent suggestion. I regret that the Commission has apparently failed to understand that. So, certainly the suggestion that you offered here will be worth a great deal of consideration.

It seems to be a good provision. Again, it is in total conformity with the intent of Congress expressed in the Constitution.

From your testimony, I take it that you would not support the proposal which suggests the abolishment of the Board of Governors.

Mr. HOFFMAN. Abolishment of Postal Rate Commission.

Mr. HANLEY. Of the Board of Governors?

Mr. HOFFMAN. No, I haven't really said that.

Mr. HANLEY. Your testimony advised that you favor retaining the Board of Governors' authority in classification cases. Would you prefer the Board of Governors continue to function as it does? We have a proposal.

Mr. HOFFMAN. Maybe I didn't make that as clear as I might have. From our vantage point, we see something of a distinction between the issues involved and the kind of information that is necessary in classification decisions, as opposed to straight rate figures and within an existing set of classification.

So, we kind of split the middle on the proposal as it stands in the bill as now written. We think the Rate Commission, assuming you have a fully qualified Rate Commission, should be independent, as all other such Commissions are, in reaching rates.

But the classification matters can be very complex technically, and just a few changes in the wording can have a staggering effect on postal service and on mail users. You could change two words and have to change one whole wing of a shipping plant to make it comply. We think in this area that some review by the Postal Service would be helpful, using history and their staff expertise as a good safeguard.

Mr. HANLEY. I should clarify my question. The proposal to abolish the Board of Governors is not contained in this legislation, but is contained in another bill introduced by Congressman Wilson. As much as you reflect upon, and we will be considering that proposal, and inasmuch as you have related to it, I am wondering what your

position was with regard to abolishment of the Board of Governors, per se.

Mr. HOFFMAN. I haven't really considered that, so I'm not prepared to answer that.

Mr. HANLEY. With regard to the Postal Rate Commission, and I think we all agree that the procedures need streamlining, do you have any specific recommendations?

Mr. SCHMIDT. Mr. Chairman. I think it is a difficult concept to streamline the Postal Rate Commission operation. Look at it from this standpoint. They have a rate request from the Postal Service. The only comparable case considering the amount of money involved was AT&T before the Federal Communications Commission and that took 6 years. You are asking the Postal Service to justify their rate request with a whole group of mail users attacking them.

The mail users don't have a sufficient staff or money to hire experts to dispute the figures. The Postal Service tries as best it can, but it is hit with 900 interrogatories at once. The administrative law judge has moved as fast as he can. It is a problem so enormous and immense that they can't speed it up much if you are going to operate with due process.

Mr. HANLEY. Would you support the continuation of the Rate Commission as it is?

Mr. SCHMIDT. I will speak personally. I think the Postal Reorganization Act was a mistake and I must say that the Association of American Publishers and American Library Association were the only two groups I know of that didn't support it. We viewed it—as an analogy,—as the same thing as if the Defense Department was put on self sustaining basis—those who sail on the submarines, buy them. We thought it equally illogical for the Postal Service. It is something that should be taken back by the Congress. I am speaking personally now.

I don't see an alternative between that and an independent Rate Commission. I don't see an ad hoc-type situation. I don't think anybody would be happy.

Mr. FORD. Mr. Cox's statement the other day was an interesting one because it contained a good many policy statements that would have been easier to deal with if we had had them from the Postmaster General. But he responded specifically to statements, speaking as the General Counsel for the Post Office and with the Postmaster's proxy in policy matters, that the uniform rate provision, which was inserted in the bill by the majority leader and minority leader on the other side, had led book publishing companies to change their habits with regard to the use of the postal service and in fact, was resulting in a situation where the people we most intended to benefit from the uniform book rate were carrying the cost of the rate classification from the postal service, because in some areas, the book publishers have been encouraged by this provision to turn to the use of private agencies for the delivery of their materials.

You responded to say that you haven't been able to find, in the short time since they said that last week, anybody that will acknowledge they will do that.

Further, we can think of no practical reason why a publisher would do this.

He does allege in this testimony that it is possible for a book publisher to save money by going to a private agency delivering for a short distance. Isn't that what he said?

Mr. HOFFMAN. We have been trying to check with him and find out how, because it is not as if we wouldn't consider doing the most efficient thing. But to our knowledge, and I have checked with all the members present at the A.A.P. Postal Committee meeting last Friday and many others on the phone, it doesn't jibe with the nature of the delivery of books. Special rate, fourth class, is absolutely essential to the delivery of books, because of the nature of the average shipment. Even with a large publisher such as ourselves, individual book shipments, whether they go to stores or, in the case of book clubs, to individuals, or even in the case of deliveries to wholesalers, the individual shipments are of such size and weight that the minimum charge for a private carrier rules it out absolutely.

You always use the U.S. Postal Service. You always ship by the book rate. I wish I could convey the looks on the faces of people on the A.A.P. Postal Committee when I read this thing to them. Who me? Who is he talking about? We couldn't do that possibly. It is sort of a mystery.

We don't understand where that came from. That is all I can say on that. The only thing I can think of is textbook publishers in the cases where there are large deliveries to a book depository or something like that. If they are delivering such a large quantity of books—let's say it is a whole truckload—those might go that way.

That is not what he seems to be talking about.

Mr. FORD. He seems to be saying you get the same service cheaper from a private agency for books and he is implying that the reverse of what we intended was occurring.

Mr. HOFFMAN. We are trying to get a meeting of the minds on it.

Mr. FORD. Did he know why it was in his statement?

Mr. SCHMIDT. I called and he said he would get back to me with the information. I am sure somebody in the Postal Service gave this to him and he made the statement with all good faith.

Mr. FORD. Mr. Chairman, I think we ought to direct a letter to the Postmaster General asking if whoever wrote that part of the statement could tell us what they were talking about.

Mr. HANLEY. Without objection, so ordered.

[Laughter.]

Mr. FORD. Mr. Hoffman, how do you distinguish between the special fourth class and the library rate, for the purpose of this type of discussion?

Mr. HOFFMAN. I think there is often a surprising amount of misunderstanding. When you say the library rate, a normal assumption is that that is the rate you pay to ship books to the libraries. However, that isn't what the library rate is. The library rate, so-called, applies to the shipment of books and other materials back and forth between libraries. Also, most curiously, it applies to shipment of materials other than books, to libraries.

But the important thing to the libraries themselves is that books being purchased by libraries from publishers or wholesalers are shipped to them at special rate, fourth class.

For instance, In Mr. Cox's proposal, it looks on the surface as if we keep the uniform *library* rate and continue protecting the interest of the libraries, but that is not true at all. Books libraries are buying from publishers are shipped at special rate fourth class on which he proposes to eliminate uniform rates. That is a distinction that seems to get lost. We have never been able to figure out or find out historically or legislatively how it came to be that the library rate can be applied to shipping things other than books to libraries, but not shipping of books to libraries.

I don't know if you care to address yourselves to that in this legislation or not.

Mr. FORD. What you are suggesting is Mr. Cox's proposal was that was what he had in mind when S. 411 was amended. We would lose some of the benefits.

Mr. HOFFMAN. That is true. The cost of books being shipped to libraries in the State of Washington would go way up.

Mr. FORD. As one of the lawyers who has had considerable experience with the ratemaking practice over there, Mr. Schmidt what is your feeling about the proposition in this legislation that the rate-making should become final at the Rate Commission.

Mr. SCHMIDT. It is the view of the Association that you leave it with the Postal Rate Commission. It is ridiculous to go back to the plaintiff for the final decision. Leave it with the independent body. There is no way to appeal to the Board of Governors after the Rate Commission acts and the Board of Governors could, under the present law, reject or modify the decision by a unanimous vote. There is no method to appeal to them.

Mr. FORD. You are presently in a position, then, where one side can't go back—assuming the post office management to be one side, and the mail user or payer of the tariff on the other side—to the Governors because they are unhappy with the Rate Commission. Unofficially you can do it. If you can get to somebody, you can do it.

Mr. SCHMIDT. As a practical matter, the administrative law judge can issue a proposed finding that the Postal Rate Commission does not buy and raise the rates a bit. Then it goes on to the Board of Governors which includes people working inside the Postal Service. In the first rate case we wanted to appeal to sustain the postal administrative law judge's decision. We sent a letter to the Board of Governors and we received the type of treatment you would expect. We assume the Postal Service delivered the letter, but we never received a reply.

We knew it was probably an exercise in futility. The only alternative we had was to go to court.

Mr. FORD. Do you think we ought to consider the possibility of an appellate step beyond the Rate Commission, itself?

Mr. SCHMIDT. We might be adding another layer of expense to everybody involved.

Mr. FORD. What about the other kind of approach of limiting the right to appeal to specific, enumerated groups of abuses.

Mr. SCHMIDT. There is that possibility.

Mr. FORD. How do we get to a situation where the Rate Commission chooses to say, as I think we heard you say, when the package is wrapped up and has to be carried, it doesn't make any difference whether it has a brick or book inside. Your people were arguing that it does make a difference whether it is a brick or book and it should continue to make a difference. Apparently, there was no mechanism available for a mail user who felt the interpretation placed on this was wrong, short of being able to show such a clear violation of Congressional rights that you could get to federal court.

How do we get the sort of thing so there would be review of the Rate Commissioner's interpretation, of either the letter of the law or the spirit of the law, short of coming back to us and asking us to legislate again and clean it up?

Mr. SCHMIDT. That is why we propose on page 9, the additional clause 8 to section 3622 setting forth criteria the Postal Rate Commission must consider.

Mr. FORD. That takes care of that issue for one time. But that would take care of it by having you turn back and say Congress said this in a way that is being interpreted by the Rate Commission as not clear enough to be mandatory to them and, therefore, they are choosing to ignore it. Congress then going back and saying it again to these people wouldn't do it. That is a difficult way for us to respond to the Rate Commission from time to time. What could we do about an immediate procedure so you could argue what we mean in front of somebody that isn't as directly involved.

Mr. SCHMIDT. You could take back the whole postal system and we could argue it in front of you.

Mr. HOFFMAN. Congressman, you seem to be implying, which may be a practical reality, that although we might all agree that the philosophy embodied in our suggested additional policy criteria is nice, it really won't make much practical difference.

Mr. FORD. It would make a lot of difference for this particular issue and I think it will have a lot of support, but it is a perfect illustration of the fact that you shouldn't have to be back saying, let's legislate again. There should be somebody who can punch the Rate Commissioners in the nose and say, this is what Congress meant and the hell with what the Board of Governors say.

They have a reason why they are motivated to read this with blinders. I don't see how anybody who was around in 1970 would have failed to recognize what we are saying, unless no one was paying attention to me at all.

There was plenty of discussion about what we had intended and there was an understanding by proponents and opponents of the Post Office Corporation that we didn't want to have the transition change any of the basic policies which had become public policy, particularly with respect to the indirect support we give to education in a formal and informal sense, and have always given to it through the Postal Department. When you are talking about the institution, that is something that I think we were proud of with respect to the Postal Service and I know that there was a very strong feeling that we wouldn't trade any of that sort of thing.

This indicates maybe we have. Also, Mr. Cox had very strong feelings against the application of the Administrative Procedure Act to the provision of the Postal Service.

Mr. SCHMIDT. I would think that would be a natural reaction to someone in his position, because it does become cumbersome to someone who has to administer it to get due process. It would also be easier for any person in the executive branch to work outside legislative oversight, but from the public standpoint, it is vital it be applied.

We want adequate notice to the public to have their day before the Postal Service, before changes are made.

Mr. FORD. Mr. Cox said he thought there was an aspect of the Administrative Procedures Act that might be applied to some part of the Postal Service in some limited number of its activities. As one familiar with administrative procedure at the Federal level, are you prepared to venture an opinion as to whether or not there is anything so unique about the Postal Service that it should not be considered with all the other Federal agencies subject to such act?

Mr. SCHMIDT. Certainly not. All the ratemaking boards are subject to that act and I don't see why the Postal Service would be different.

Mr. FORD. They say they are not ratemaking and they are a service.

Mr. SCHMIDT. Any ratemaking body would say they are service first and money raising second. He talks in general terms. I don't see his point in it at all.

Mr. FORD. They are playing a technical game and we are going to have to find a way, without going back and picking up every little mistake, to correct it or set the machinery in motion to correct it. In another committee on which I serve, we discovered as a result of what was brought to us by unions representing the postal workers, that the General Counsel says notwithstanding our specific language, that the Service Contract Act should be one of those acts that will specifically apply to the Postal Service.

We neglected in using that language to say, "as amended." He construes it to mean anything the Service Contract said then but anything it says in the future as a result of an amendment, doesn't apply to the Postal Service, even though it applied to everyone else. In the list of acts enumerated there are such acts as the Civil Rights Act, itself. He is not willing to say that you need "as amended" to make the Civil Rights Act apply, but if it comes to wages or working conditions, it does apply that way.

What this brings to our attention is—we will correct it in the Labor Committee—people will say in the future, "Why are you writing the law to say everybody and the Postal Corporation?" But it is apparent if this kind of thing goes on, we will have to devise a procedure short of abolition and return to the legislative process, for a forum, at least, to determine these things.

Mr. SCHMIDT. One of the things would be to work over the judicial review provision. You might study that and see if it can be made more specific to allow the court greater latitude than the normal administrative appeal.

Mr. FORD. Thank you very much.

Mr. HANLEY. Thank you, Mr. Ford. In your testimony, you credit the Board of Governors with enjoying the qualifications to review classification, et cetera. This is certainly heartening and I wonder what you base this judgment on. Do you talk about the Board of Governors, itself, or the—

Mr. HOFFMAN. We are thinking of the resources within the Postal Service, available to the Board of Governors. This reflects the view that has been expressed in our Association Postal Committee. It is our feeling that within the Postal Service, there is technical knowledge to have a clear understanding of the practical impact of classification changes, and that that degree of technical knowledge might be a useful safeguard against changes, the full implication of which might have escaped the staff resources of the P.R.C.

Mr. HANLEY. Then, in reality, what you are saying is it is a capability, an in-house capability of the USPS as opposed really to that of the Board of Governors.

Mr. HOFFMAN. That is quite true.

Mr. HANLEY. I have no further questions.

Mr. FORD. I have none.

Mr. HANLEY. Again, our appreciation to you, Mr. Hoffman, and you, Mr. Schmidt, for your contributions here this morning. Your testimony was excellent. It was helpful and we appreciate it.

Mr. HOFFMAN. We stand ready to help with other questions, if they come up.

Mr. HANLEY. The next witness this morning is Miss Eileen D. Cooke.

**STATEMENT OF EILEEN D. COOKE, DIRECTOR, WASHINGTON OFFICE,
AMERICAN LIBRARY ASSOCIATION, ACCOMPANIED BY ROBERT
FRASE**

Miss COOKE. Good morning, Mr. Chairman. I would like to request that Mr. Robert Frase, practicing economist, might stand by in case you have any questions of a technical nature.

Once again, I want to thank you for the opportunity of presenting my testimony and also, to thank the members of the committee for their diligence and persistence in working on this area of legislation, particularly to congratulate you on your recent passage of S. 411—P.L. 93-328—which does a great deal to improve the library and book rates over a longer period of time. The new law increases the phase-in period from 5 to 8 years for books and from 10 to 16 years for the library rate.

The American Library Association is a nonprofit educational organization of over 32,000 librarians, library trustees, educators, and other citizens who are committed to the development and further improvement of library and information services as a contribution to the educational, economic, business, scientific, and cultural life of the Nation. Founded in 1876, the Association is the oldest and largest national library association in the world. Its concern spans all types of libraries: State, public, school and academic libraries, research and law libraries, special libraries serving persons in Govern-

ment, commerce and industry, the arts, the armed services, hospitals, and other institutions.

LIBRARY CONCERN WITH POSTAL RATES

The American Library Association has been very much concerned over the years with postal matters. Libraries use all classes of mail but our interest has been concentrated on two subclasses of fourth-class mail. One of these is the so-called library rate, which is used by libraries for loans of materials between libraries and their patrons. The second is the special fourth-class rate which covers books and other educational and cultural material.

Our concern with the second category is based on the fact that libraries pay the postage on book shipments received by mail; and the mails are used on the average for more than half of the incoming volume of books which libraries buy for their collections.

This is an average figure, but in some cases, especially for public and school libraries in the sparsely settled part of the country, upwards of 90 percent of library receipts of books are through the mails. Thus, we have a very direct interest in this rate, because the more libraries have to spend for postage, the less they have to spend for materials. This matter is particularly urgent in this present period of budget stringency.

It may seem to be only pennies to those in affluent communities, but it adds up to added book-buying dollars for people in less affluent or straitened circumstances.

THE POSTAL REORGANIZATION ACT

Because of this long-standing concern with postal matters, we took an active interest in the Postal Reorganization Act of 1970—P.L. 91-375—when it was before Congress in 1969 and 1970. We were frankly disappointed that the original administration proposal, the House version of this legislation, was not enacted.

You will recall that both these versions left to Congress the setting of rates for the library category and the special fourth-class category, as well as certain other public-interest and nonprofit rates. We believe that the Kappel Commission and the House committee were right in thinking that these rates were so important to the distribution of educational and cultural materials that they should, as a matter of national policy, be set by Congress rather than by an administrative commission.

As you know, the final bill did not work out this way, and the compromise bill between the House and the Senate was based on a different theory. A line was drawn between so-called nonprofit rates and commercial rates and the library rate was placed on the nonprofit side; whereas, the special fourth-class rate, which is equally important to us and to educational institutions, was placed on the commercial side.

The concession made to the so-called nonprofit rates was to extend the period of phasing or adjustment to new and higher rates over a 10-year period rather than a 5-year period, and also to place a ceil-

ing on the nonprofit rates of not more than directly attributable costs. We are grateful that Congress has recently seen fit to amend the basic statute to extend the phasing periods for the library rate to 16 years and for the special fourth-class rate to 8 years in P.L. 93-328.

CONGRESSIONAL INTENT WITH RESPECT TO EDUCATIONAL AND CULTURAL MATERIALS IN THE POSTAL REORGANIZATION ACT

There was ample evidence in the legislative history that Congress wished to have the Postal Rate Commission take into account the educational and cultural value of books and related materials. Recalling that in 1951 the Post Office Department proposed the virtual elimination of the nationwide flat book rate and its replacement with parcel post rates, we were also very much concerned that, unless Congress specified otherwise, the new Postal Service and Rate Commission might throw books back into the zoned parcel post rate.

We tried to figure this out and figured that somebody in the first zone might pay something like 55 cents or 65 cents while on the West Coast, they will pay \$2.55 or \$2.65 for the same parcel book. So talk about discrimination, there was an example of those in remote areas paying higher rates.

This would have been catastrophic for libraries remote from the publishing centers in the East and Middle West who would, therefore, have had to pay several times as much in postage on their book purchases as libraries and other consumers close to the publishing centers. Fortunately, in 1970, we were able to interest the minority and majority leaders of the Senate in this cause and the Scott-Mansfield amendment was added on the Senate floor to the Senate version of the bill. This was subsequently approved by the conference committee, and appears in the Postal Reorganization Act as section 3683.

In view of our experience in the first postal rate case, we are convinced that, without this specific legislative provision requiring uniform national rates for special fourth-class and library rates, books might well have been dumped back into zoned parcel by administrative action.

EXPERIENCE BEFORE THE POSTAL RATE COMMISSION

We participated as formal intervenors in the first postal rate case and concentrated our attention on the library rate and on the special fourth-class rate. We sent out special questionnaires to our members as a basis for our direct testimony, and the director of the Washington office took the stand as an expert witness on behalf of the association.

The general counsel of the American Library Association who participated in the case was William D. North, of the firm of Kirkland and Ellis, in Chicago, which is the headquarters city for the association. It was a very considerable burden on the association to participate in these formal proceedings, especially since the Commission seemed to insist on the bulk of the participation by lawyers.

This required more travel to Washington from Chicago by our attorney than he has been required to do for all of the other combined Washington business of the association.

We are also currently participating in the two cases now active before the Postal Rate Commission—the case to reform the classification structure and the second rate case. The Commission has now permitted limited intervention in these cases which somewhat reduces the financial burden of participation by associations like ours; but limited intervention also carries the danger that by not spending substantial sums of money for economic, statistical, accounting, and legal services, we will not be able to discover facts which would result in lower rates.

Let me give a concrete example. In the current rate case, the Postal Service in September of last year proposed a 26 percent increase in the ultimate level of the library rate. We protested this increase on grounds of its impact on libraries and also pointed out certain obvious weaknesses in the Postal Service cost estimates based on small samples and subject to admittedly high margins of error.

However, we could not afford to employ expert statistical and accounting services from outside the organization and consequently did not discover that the Postal Service cost figures were excessive in other ways.

It therefore came as a complete surprise to us when the Postal Service within the last 2 weeks moved to withdraw its proposal to increase the library rate, with the explanation that errors had been made in estimating attributable costs.

At this point I would request permission to enter into the record the withdrawal of request for changes in rates for library rate fourth class that the Postal Service submitted in the hearings:

Mr. HANLEY. Without objection, so ordered.

[The document follows:]

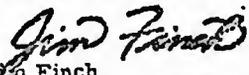
BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D. C. 20268

POSTAL RATE AND FEE INCREASES, 1973; Docket No. R74-1

**WITHDRAWAL OF REQUEST FOR
CHANGES IN RATES FOR LIBRARY RATE FOURTH CLASS**

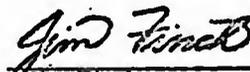
For the reasons set forth in Attachment I hereto, including amended page 201-204 of the proposed direct testimony of Arthur Edcn (Tr. 402-405), the United States Postal Service hereby withdraws its request for changes in rates for fourth class library rate matter.

Respectfully submitted,


Jim Finch
Attorney for the U. S. Postal Service

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.


Jim Finch

475 L'Enfant Plaza West, S. W.
Washington, D. C. 20260
July 1, 1974

ATTACHMENT 1

The Service, at this time, is withdrawing its proposal to increase the approved full rates for fourth-class library rate mailings from 10 cents to 14 cents for the first pound and from 5 cents to 6 cents for each additional pound. We are instead proposing that the currently approved rate schedule for fourth-class library rate mailings be retained. This change is a consequence of the latest available estimated attributable costs for such mailings. The proposed retention of the current rate schedule for fourth-class library rate mailings is designed to comply with the criteria of the Postal Reorganization Act as explained in the attached revised testimony.

The effect of this change on the revenue requirement of the Service is to shift an identical amount of revenues from postage and phasing appropriation revenues to continuing appropriation revenues. The amount of the increase attributable to changes in phased postage rates may be sought by the Service through a supplemental appropriation request. Consequently, the overall revenue requirement of the Postal Service is not affected by this change.

In view of this change, the proposed direct testimony of Arthur Eden, pages 201-204 at Tr. 402-405 will be amended substituting the attached four pages therefore.

Amended Direct Testimony of Arthur Eden,
Pages 201-204

LIBRARY-RATE FOURTH CLASS

Proposal in Brief

The Service proposes to retain the full rates approved by the Governors of the Postal Service and implemented effective July 6, 1972 (Docket R71-1). The increases would continue to be phased over the remainder of the prescribed phasing period.

Financial Summary

Table 46

Aggregate Costs and Revenues: Estimated FY 1975
(\$ in millions)

<u>Attributable costs</u>	<u>Revenue at current rates</u>	<u>Percent of attributable costs</u>
\$9.5	\$9.4	99.6%

Table 47

Per-Piece Costs and Revenues: Estimated FY 1975

<u>Attributable costs</u>	<u>Revenues at current rates</u>	<u>Contribution to institutional costs</u>
30.3¢	30.2¢	- 0.1¢

Classifications and Characteristics

The classification of items eligible for these rates was fixed in the Postal Reorganization Act, by reference to former legislation. In accordance with that earlier legislation, the library rate is applicable to mailings of the following items:

1 Books; printed music; bound volumes of academic theses;
2 sound recordings; periodicals; other library materials;
3 museum and herbarium materials; 16-millimeter or narrower
4 width films, filmstrips, transparencies, slides, micro-
5 films, scientific or mathematical kits, instruments, or
6 other devices; also, catalogs, guides or scripts for some
7 of these materials.

8 Mailings of the above materials must be sent to or from
9 schools, colleges, universities, public libraries, museums and
10 herbaria; or to or from nonprofit religious, educational, scientific,
11 philanthropic, agricultural, labor, veterans, or fraternal organi-
12 zations or associations to be eligible for these rates. Further,
13 for mailings of books, printed music, academic theses, periodicals
14 and other library materials, the items must be sent on a loan or
15 exchange basis (or for cooperative processing) between the eligible
16 organizations or associations or they must be sent between such
17 libraries, organizations, or associations, and their members, readers
18 or borrowers. Mailings of other authorized library-rate materials
19 need not be sent on a loan or exchange basis but must be sent to
20 or from one of the eligible organizations or associations.
21
22
23
24
25

Volume Trends

Table 48

Volume Trends
(Pieces in millions)

<u>1960</u>	<u>1970</u> ^{1/}	<u>1971</u> ^{2/}	<u>1972</u> ^{3/}	<u>1973</u>	Percentage change <u>1973/1960</u>
10	21	30	28	30	200%

^{1/} Full fiscal year at pre-R71-1 rates.^{2/} Fiscal year, partially affected by temporary rates (May 16 to June 30).^{3/} First fiscal year at increased rates.

Over the decade from 1960 to 1970, the Postal Service observed an increase of nearly 150 percent in library mail volume. Actual 1972 volumes were 12 percent greater than 1970, although the volume dropped 6.7 percent between 1971 and 1972. In FY 1973, a gain of about 7.1 percent was realized. The much higher volume levels reached during the 1960's were, in part, attributable to enlargements to the scope of the rate category, to include such items as sound recordings and films. The Nation's booming educational and informational requirements have also added significantly to the volume growth.

Market

This subclass of mail accounts for about three-one-hundredths of one percent of the total mail pieces handled by the Postal Service. In the past rate proceeding, the witness for the American Library

1 Association, the intervenor primarily affected, estimated that
2 the full postage rates for both library and special-rate fourth
3 class would account for about 0.025 percent of the library mailer's
4 total operating budgets. ^{1/} It is important to note that rates
5 for this subclass of mail are designed to match only attributable
6 costs. Subsidies are authorized, during and beyond the rate
7 phasing period, to cover an appropriate contribution toward in-
8 stitutional costs. (A detailed rate history appears in USPS
9 Exhibit 9.)

10 Rate Construction

11 Retention of the full rates recommended by the Postal Rate
12 Commission (Docket R71-1) and approved by the Governors of the
13 Postal Service for implementation on a phased-rate schedule
14 beginning July 6, 1972, is designed to comport as nearly as
15 practicable, to the ratemaking criteria of the Postal
16 Reorganization Act. The three primary governing criteria are
17 contained in sections 3622(b)(3), 3626(1), and 3683 of Title 39,
18 United States Code. These criteria require (1) rates to yield
19 revenues not less than attributable costs (2) rates to yield
20 revenues not greater than attributable costs, and (3) uniform
21 rates which do not vary with distance,

22

23

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25

^{1/} R71-1, 3-1763

SUPPORT OF H.R. 15511

The American Library Association endorses several of the provisions of H.R. 15511. These provisions correct most of the obvious weaknesses of the present statute, as demonstrated by the experience of the last 3 years. However, we believe that with respect to two matters these provisions of the bill do not go far enough. We would also like to suggest an additional provision that does not appear in the bill at all.

We endorse without change the provisions of the bill relating to: (1) The provision of a 20 percent public service contribution by the Federal Government; (2) making Postal Rate Commission decisions on rates final; (3) requiring Senate confirmation of Postal Rate Commissioners; (4) removing the Commission's budget from the Postal Service budget; (5) amending the statutes on the postal monopoly of letter mail to provide statutory exclusion for items which have been historically excluded from the monopoly, such as magazines, newspapers, and books; (6) placing the Postal Service under the Administrative Procedures Act; and (7) giving the Postal Service power to represent itself before courts without prior approval of the Attorney General.

CHANGES SUGGESTED IN TWO PROVISIONS

Our recommendations for amending provisions now in the bill are: (1) To lengthen the waiting period before the Postal Service can impose temporary rates from the 180 days provided in the bill—double the present 90 days—to 365 days; and (2) to remove the power given in the present law to the Postal Service to impose classification changes on a temporary basis once an initial new classification schedule is established under section 3623.

On the matter of temporary rates, even a waiting period of 180 days is not long enough. The Postal Rate Commission required almost 1½ years to conclude the first rate case. The second rate case is already in its 10th month since the Postal Service made its proposals in September of 1973, and it will undoubtedly take several months more to complete. As a practical matter, lengthening the waiting period to 180 days, especially in an era of rapid inflation of costs and the possibility of rate increase proposals every year or so, would give the real authority to raise rates to the Postal Service through the temporary rate power; and the proceedings before the Rate Commission will become largely academic:

On reclassification, this is a long-range matter and an exceedingly important one. By classification changes, the present preferences given certain classes of mail—such as the library rate—intended by the Congress could in effect be wiped out. This kind of power should not be conferred on the Postal Service by permitting temporary changes. Decisions must be left to the Commission alone, no matter how long a period this may require.

They are having contract discussions this morning on the need to hold the line and make the mail self-sustaining. I would like to call to your attention the Conference on Books by Mail Service held during our 92d annual convention last year that concentrated on books by mail library service and showed how some of the people who could least afford to pay for mailing costs are dependent on the mails—elderly citizens, and people in remote areas, and those in institutions. For example, many libraries have increased service to prisoners in penitentiaries, like Attica. You might find this study of interest and I ask that it be inserted in the record.

Mr. HANLEY. Without objection, so ordered.
(See p. 288.)

Miss COOKE. We believe that the present statute needs amending to require that the Commission take into account the educational, cultural, and scientific values of certain of the materials which move through the mail, including second-class publications, special fourth-class books and other materials, and library-rate materials. It is clear from the first rate case that the Commission is not disposed to give any significant weight to these public interest factors in recommending rates but operates solely on the basis of pure economics and costs. The officer of the Commission whose assignment is to protect the public interest goes even further in this direction of pure economics and cost accounting than the Commission itself. In the current rate case, for example, the officer of the Commission has made a proposal, by changing the interpretation of attributable costs, which would virtually wipe out the protection given to the library rate and other nonprofit rates which the Congress intended by limiting the rates to the recovery of the attributable costs, with no share in the burden of institutional or overhead costs.

We propose, therefore, that H.R. 15511 be amended to include a provision to add to section 3622 of the current statute a new and additional criterion which the Commission must take into account in recommending rates; namely, the educational, cultural, scientific, and informational value to the recipient of mailed materials.

In closing, Mr. Chairman and members of the committee, the American Library Association appreciates this opportunity to present its views and recommendations for improving H.R. 15511, to help you achieve the broad consensus necessary for effective congressional action, and ultimately to help improve the quality of mail service available to the people of this country. We see its eventual enactment as a way to assure the broader distribution of reading and audiovisual materials available in libraries throughout this country for the educational, recreational, and cultural benefit of all people, particularly those in remote or isolated areas who are especially dependent upon prompt, low-cost mail service. Again, we thank you and stand ready to be of assistance in anyway we are able.

Mr. HANLEY. Thank you, Miss Cooke, for your excellent testimony and we appreciate the kind comments with regard to the committee action of S.411.

While you and our friends from the book industry, are here I would be remiss if I didn't relate to the exemplary efforts on the part of my friend and colleague, Mr. Ford, who paid special atten-

tion to the cultural aspects of libraries, books, and so forth, and did a commendable job which made the overall task somewhat easier.

You related to the necessity of a lawyer appearing before the Rate Commission. Had you proposed that you or a representative of the association appear instead of an attorney and you were denied that?

Miss COOKE. As I understand it, it is basic to the whole process that you have a lawyer appear for you. My predecessor was called on at some later time in the proceedings to testify. Prior to that, it is necessary, or at least it was at that time we first were involved in the rate case, to have a lawyer.

Mr. FORD. That is the first good thing I have heard about what they do over there. I won't start passing out books if you don't start passing out legal advice.

Miss COOKE. We are looking now for a volunteer lawyer.

[Laughter.]

Mr. HANLEY. I will see what I can do with my friend on the left. He is accommodating and we will see if he can wear two hats.

Mr. FORD. My union says I can't work anymore.

Miss COOKE. Mr. Ford in talking to Mr. Hoffman asked for suggestions. I don't know if it is practical, but I would like to submit one. To avoid the necessity of constantly having to police the postal regulations, perhaps it would be possible to write in something less than the attributable cost—set it at 50 percent of the attributable cost, so the increases won't continue to rise so sharply.

Mr. HANLEY. As we move along, we will put a great deal of emphasis on accommodating anything that resembles cultural information.

Miss COOKE. We made that recommendation to set the library rate at 50 percent of attributable cost, to the Postal Rate Commission but it fell on deaf ears.

Mr. HANLEY. Can you give us any further details as to why the Postal Service withdrew its proposal to raise library rates?

Miss COOKE. Frankly I am mystified. I think they took a look into their accounting procedures more sharply and have found that some of the errors we have pointed out were indeed true.

Mr. FRASE. The statement is ambiguous. It really doesn't give the reasoning. They say they refigured the attributable cost and they came up with a lower figure. The law required that they not exceed attributable costs, so they withdrew the proposal for increases. We haven't heard the end of this because if the Commission's proposal is carried out, adopted by the Postal Rate Commission, 85 percent of the total cost of the Postal Service would be brought under this umbrella of attributable cost instead of 50 percent as interpreted by the Postal Service. So, the library rate ceiling would go up by almost 100 percent by this redefinition of what attributable cost is.

Mr. HANLEY. You are an accountant, is that right?

Mr. FRASE. Yes.

Mr. HANLEY. May I ask, what if the Postal Service, with regard to classification changes, asks that they immediately be given the authority to change classification temporarily, since a classification

cannot be effective until a rate is attached to it. Do you have any comments?

Miss COOKE. I would hate to see any temporary change in classification be put into effect, just from our experience with the temporary rate increases. They tend to become the rate increases they ultimately adopt. I can imagine their line of reasoning, once the temporary rates are in effect, they would be apt to hold to them, saying, "We would have to go back and undo the work we have done." I believe having to reverse the temporary changes once in effect is intimidating to the Board of Governors and the Rate Commission, itself. This is why I feel no temporary change should go into effect without going through the full review process, for rates and classification.

Mr. HANLEY. I assume you have a basis on your proposal of 90 days being changed in 180 to 365?

Miss COOKE. Just on the length of the hearing process we have experienced and knowing they are already 10 months into the second rate case.

Mr. FORD. I think you said the effect it has is to transfer the real ratemaking function to whomever has the power to set the temporary rate.

Miss COOKE. That is right.

Mr. FORD. By the time you get through with the rest of the process, it is pretty well frozen into cement.

Miss COOKE. It completely negates the process of the hearing.

Mr. FORD. Of course, it looks to me like a postal service would think that a 365-day proposal was an invitation to make it 4 years instead of a year and a half. They have actually been responsible for requesting extensions and they say their staff was short. They are suggesting they can't answer the things thrown at them through the interrogatories and the like because in deciding their priorities, they decided their staffing for that purpose was not a high priority.

This is a more general question because many amendments will be offered to this vehicle before us and they range from the very mild amendment to abolition of the organization created here.

Some of us would like to be here long enough to get redemption, especially if you are a backslider like me who fought it for a year and a half and walked out there and gave in, held my nose and voted with the majority.

Mr. Gross is retiring at the end of this term and all he would have to do is smile and I would know he was looking at me and saying, "I told you so."

You have been through the experience of supporting your position on a regular basis, in support of legislation we were considering last year and this year, affecting library and librarians and the book rates they are concerned with and again, you have been through a long siege of informing your people, and I assume, being informed by them about the process by which you, as their representative, are trying to represent them in this rate proceeding. Can you tell us anything about the kind of attitudes or reactions being expressed by the members of your organization in general terms? Are they satisfied or dissatisfied with the direction we are taking?

Miss COOKE. I would say they are most appreciative of what Congress is trying to do and they deplore what has been happening with the Postal Service and the cost of postal service, primarily because of increasing costs and diminishing budgets, at all levels—Federal, State or local.

Everything is impacting at once and the book budget and periodical budget is the only area with some give. For every increased penny librarians have put into postage, keeping in mind there are thousands of books going out, it adds up to hundreds and even thousands of dollars in state library agencies and many large library systems. So, librarians are very conscious and concerned about what is going on. That is why I wanted you to know how much your work has been appreciated.

Mr. FORD. It may seem like I am trying to repay the kindness. I have told the Chairman what he has done for the last year and a half, particularly because of his patience to come back and stick with it, has meant more in real money for the libraries than anything we have done in the Education and Labor Committee this year.

The Library Association watches us closely.

Mr. HANLEY. The Association is indeed blessed.

Mr. FORD. I kind of smiled at the formalization of the introduction because both of them are the people who write the amendments, very frankly.

[Laughter.]

Mr. FORD. It is easier to say no to an economist than it is to Eileen Cooke. Thank you very much for what you have done to help us in the committee.

Mr. HANLEY. Miss Cooke, would it be possible to provide the committee with the postal bill for libraries throughout the country? Is that available? How much money do libraries spend?

Miss COOKE. We would be delighted to try to put it together. Since the prices have gone up again since July 6, we will need to send out a further questionnaire.

Mr. HANLEY. If it doesn't impose a great mechanical problem, it could be a good statistic we might work with through the months ahead.

As you mentioned, every penny you spend in postal cost takes away from the basic intent of the library. So, for some of our friends who don't share our position, it might be helpful to us if we could spell out the financial impact that the postal rates have on this fundamental cultural activity in our country.

Miss COOKE. I might add something I learned a few months ago that would apply, as another example, regarding the talking books and materials that go to the blind and handicapped from the Library of Congress. I think the public tends to think of that as free mail service. However, all of the Federal agencies have to pay the top price—not the phase-in rate—they pay 10 cents a pound and have had to pay the full rate ever since the Postal Reorganization Act came to effect. So, while it doesn't appear directly as cost to the user, it is a cost to the taxpayer because the Library of Congress, the Government Printing Office and others have had to reimburse

the Postal Service. So, it still takes the taxpayers' dollars one way or another. It is one more reason why it is so essential that the educational and cultural value be pointed out because there are many public services absolutely dependent on mail service and good, efficient mail service.

Mr. HANLEY. Well, in association with what you have said, as you know, during the course of the last several months, the Congress had to enact legislation which adjusted the cost of mailing the Congressional Record. After the enactment and implementation of the Postal Reorganization Act, the cost for mailing a copy of the Congressional Record was \$1.25, average cost per copy. The USPS was reimbursed through the taxpayer's dollar to that extent. That has now been adjusted and it goes as second class.

Miss COOKE. The same situation prevails with regard to depository libraries and to citizens or other types of libraries or educational organizations purchasing materials from the Government Printing Office. GPO prices are undergoing adjustment. They, for example, have items increasing from \$2.50 or \$2.75 to over \$10.00. GPO's greatly increased postal costs are a major factor causing the steep price increases of government publications. It seems to me that the Depository library program is a benefit Congress provided to inform citizens, to help them to learn results of their government research tax dollars.

Mr. HANLEY. Again, our appreciation for appearing here this morning.

[Whereupon, at 11:58 a.m., the hearing was adjourned, subject to call.]

PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

TUESDAY, SEPTEMBER 17, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 210, Cannon House Office Building, Hon. James M. Hanley (chairman of the committee) presiding.

Mr. HANLEY. Today, we resume hearings on H.R. 15511 and other proposals to amend the Postal Reorganization Act of 1970 which were begun in July.

We had hoped to complete these hearings by this time. However, the unusual events of the last month, combined with the congressional recess, have required the postponement of several days of hearings.

Further hearings have been scheduled for September 25, October 2, 7, and 8. Other hearings will be scheduled if time permits, so we will make every attempt to complete these hearings this year.

Our first witness today is a former member of the Post Office and Civil Service Committee, Representative Elwood Hillis.

Bud, we are delighted to have you with us this morning, and certainly your long-time experience on this committee is going to qualify you as an excellent witness.

So we look forward to what you have to say, and I am confident that it will contribute immeasurably to the deliberations of this committee.

STATEMENT OF HON. ELWOOD H. HILLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. HILLIS. Thank you very much, Mr. Chairman.

It is my pleasure to have this opportunity to appear here this morning, and I suppose it is a little bit like coming home.

I enjoyed very much my service with this committee, although I was not on this subcommittee.

Although I am no longer a member of the Post Office and Civil Service Committee, my interest in the work of this committee remains strong.

These hearings have aired many points of view with regard to postal service. As all of you know, postal reform has been a subject of discussion ever since the beginning of postal service. Changing times and ever-changing requirements will necessitate a review and reform of standards.

We have periodically enacted laws to improve our postal service.

The Postal Reorganization Act of 1970 was, in my opinion, decidedly a move in the right direction. It removed politics from the postal system and gave to the Postal Service the freedom to develop an improved system of mail delivery across the Nation.

However, the Postal Reorganization Act did not abrogate the Congress of its responsibility to the American people to see that adequate service is provided.

In March 1973, while I was a member of the committee, I introduced a bill, H.R. 5051, to establish improved nationwide standards of mail service. This bill was cosponsored by 26 Members of the House.

H.R. 5051 said that in carrying out the provisions of section 101 (b) of title 39, United States Code, the Postal Service shall establish and assure, to all postal patrons, certain standards which would include:

- (1) Next-day delivery of mail deposited for delivery within a city;
- (2) Delivery within not more than 3 consecutive days of mail deposited for delivery within the United States;
- (3) Carrier service on a 6-day-a-week basis;
- (4) Post office window service on a 6-day-a-week basis;
- (5) Second-attempt delivery of parcel post; and
- (6) Multiple delivery and collection service.

Representatives of the Postal Service will quickly point out that some of these very basic standards are being carried out in most instances. The Postal Service is to be commended for this effort.

However, our concern is for those citizens who are currently being denied these basic postal services.

In the July 1973 reply from the Postal Service to the proposal of congressionally defined standards, the argument was presented that standards should be set according to various customer needs, and the "legal limitations on postal services would cripple our present effort to provide services tailored to the actual needs of our customers."

This argument is both spurious and irrelevant. Minimum standards do not imply in any way limitations on service. Minimum standards would not prevent, for example, express mail service, or special security services, et cetera.

The congressional standards which I would like to see passed recognize that there are certain essential services needed by all Americans, regardless of the size of community, type of business, or geographical location.

A recent General Accounting Office study of 13 large post offices in the first 3 months of 1973 reveals the extent of success the Postal Service has had with its own 1-day delivery standard. The success of the intracity 1-day standard ranged from 78 percent to 97 percent. The percent of achievement for the 2-day standard ranged from 58 percent to 88 percent.

The Postal Service's objective is to deliver 95 percent of the mail within the confines of the minimum delivery standards which the Service has set. In 1973, 89.5 billion pieces of mail were handled. If the present goals of the Postal Service are met, nearly 4.5 billion pieces of mail will have substandard delivery annually.

According to an August ODIS (origin and destination information system) report, the goal of 95 percent was achieved nationally on next-day delivery. The success of the second- and third-day delivery standards was 91 and 87 percent, respectively.

These figures do represent an improvement. I believe one should consider, however, the method of computation. These figures do not include the time mail remains in boxes prior to pickup.

Consequently in some instances mail may remain in a box from 3 p.m. Friday until 2 p.m. Monday—the length of 3 days—before being considered within the spectrum of postal inefficiency.

The GAO report states that self-sufficiency is a highly desirable goal but not at the cost of inadequate postal service for millions of Americans. By emphasizing economy, I fear that we here in Congress have encouraged the Postal Service to place economy above service in too many instances.

For example, Saturday window service does not exist in approximately 40 percent of the post offices in this country.

I believe that more attention needs to be placed on the quality of service offered the American people. By requiring certain very basic standards of service, the Congress can bring about a much needed balance between acceptable service and the attempts to reduce costs.

I have spoken with a number of my colleagues and they all report the large number of complaints received annually regarding postal service. With the skyrocketing costs of mail service to the consumer, the American people have a right to insist on certain minimum standards.

This right is not to be reserved for those who happen to fit into a delivery system plotted in Washington. The right to this basic service is one which is equally shared by all Americans.

I have in my files complaints from many constituents. Some examples:

A businessman in Indianapolis sent a package of reports with first-class postage postmarked October 16, 1973, to a client in Dayton. The client did not receive the package until October 30, 1973.

One lady twice mailed a letter to her daughter in East Lansing, Mich., and twice the letter was returned to her unclaimed.

A gentleman mailed a letter from Indianapolis to his home in Indianapolis and did not receive it for 6 days.

Gentlemen, I am certain that the caseworkers in each of your offices can supply you with a long and similar list.

In commenting on the proposed minimum standards to the chairman of this committee, the General Counsel for the Postal Service stated:

The service standards set forth in H.R. 5051 are not, in our opinion, a meaningful or desirable expression of postal policy. In general, the proposed standards are vaguely and arbitrarily stated and ignore both the differences among mailers and the differences between the various classes of mail.

Gentlemen, I do not believe the Postal Service should have the power to arbitrarily set delivery standards for the American public. This is the job of Congress. It is not up to the Postal Service to determine that the people of Denver warrant 6-day delivery and the people of Atlanta should have 5-day delivery.

So long as the American people must pay equally for service, then it is up to the Congress to set basic standards of service to be delivered equally.

Too often management emphasis has been placed on cost reduction rather than on customer service. I do not believe that the acceptance of mandatory service standards will necessarily increase the cost of mail service and the National Association of Letter Carriers agrees.

However, it will force postal managers to use their time managing the service aspect as well as the cost aspect.

In calling for minimum standards, I would not want it to be construed as criticism of the U.S. Postal Service. I think the Postal Service should be complimented on its many accomplishments.

The standards set forth in H.R. 5051 may be used as working suggestions for this committee. The staff and members of this committee may conclude that certain standards written in this bill are not altogether necessary.

On the other hand, in consultation with representatives of the Postal Service, additional standards may seem altogether appropriate.

The important thing is that we, as representatives of the people, exercise our responsibility to provide adequate postal service to all Americans.

I appreciate the time which you have given me here today. In closing, I wish to ask you to give this proposal your consideration as an amendment to the legislation which will be reported from the full committee.

This action has the full support of the National Association of Letter Carriers. I am certain that it will have the support of your constituents, who have a right to insist on good, adequate minimum service.

Thank you very much, Mr. Chairman.

Mr. HANLEY. Bud, I want to commend you on your very comprehensive testimony.

Certainly, you make a number of excellent points, and the intent H.R. 5051 is, indeed, a noble one, and certainly it provides fundamentally an excellent bible for the USPS.

So be assured that, through the deliberations and final determinations of this subcommittee, a great deal of attention will be given to the provisions contained within it.

As you know, a number of bills have been introduced by various members which would have the effect of repealing the Postal Reorganization Act of 1970.

From the tenure of your testimony, I have assumed that you would not endorse such a repeal of the Reorganization Act?

Mr. HILLIS. That is correct, Mr. Chairman.

I think that the act can be improved, but I think it would be a mistake to repeal it.

We have made some important basic decisions, such as taking policy out of the system, promoting on merit. All of these things are important. I think it is better that we have, for example, a collective bargaining in the process of determining pay scales of employees, rather than having them set by, first, this committee, then the Congress.

The ratesetting system is, I think, preferable now.

All of these things are improvements. But I think we tended to get the cart before the horse, in the sense that we cut service on the basis of economy; and I really think that is a mistake.

And I think that it would be a terrible mistake if Congress gives up its overview of the postal system.

There tended to be an issue of too much independence, or at least a spirit of independence, on the part of the Postal Service. I think Congress has very much got to keep looking into this and see that the service aspect is there.

Mr. HANLEY. Well, on the basis of what you have said, I see that you and this subcommittee are pretty much on the same frequency, and that is that, as opposed to an out and out repeal of the act, we would move with a number of substantive amendments that hopefully would correct the shortcomings which presently prevail.

Mr. White?

Mr. WHITE. Thank you, Mr. Chairman.

Mr. Hillis, you were not here when the Postal Corporation Act was passed.

Mr. HILLIS. That is correct.

Mr. WHITE. Has there been any research by your staff as to whether or not the sentences you prescribed in your bill were in fact a reality prior to, say, 1958?

Mr. HILLIS. No; unfortunately I cannot give you any information on that.

I think that many of these things at different times used to be the standard, and if they were not written in the spirit of the law exactly, they were observed or were generally carried out.

I get the general feeling that service today has been cut back in many, many communities. That is, strictly on a matter of economics.

The Service feels that they have been mandated to come up with this break-even position, and the fact of the law, as I remember it, calls for phasing out of the subsidy, and they are to be on a break-even basis.

And to do this, you cannot, particularly in small communities, give as much service as we used to give.

This seems to be the general feeling.

Mr. WHITE. Do you believe they could ever reach a break-even basis without, as the European countries do, having control of the telegraph and telephone systems, which I do not advocate?

Mr. HILLIS. No.

Frankly, the only way they can reach a break-even basis and give service, I think, is at a much higher postal charge.

Maybe we would be talking about a 20-cent first-class rate, or 25-cent, and I think when you do that, you are going to deny the use of the system to many persons, and this, I think, is contrary to our tradition.

I think that we are always going to have to look at some sort of a reasonable communications subsidy in this country, and if we do this, then we should insist on first-class service.

And I commend this committee for holding these hearings and looking into these problems to see where this balance lies.

Mr. WHITE. The chairman brought up the matter of a number of Members having introduced bills to retrieve the Postal Service under the umbrella of Congress, and I would suggest that the services that you suggest in your bill may be an interesting criteria as to whether or not a retrieval is indicated.

Mr. HILLIS. Well, I can only emphasize again, in closing, that I do not see that these particular provisions are sacrosanct in any way. But perhaps it can point a direction of study for the committee to see which way we should be going.

This is not retrieving anything from the Postal Department. It is merely saying, these are the things Congress—

Mr. WHITE. I think the guidelines are good. What the Postal Service should be striving for is primarily to give service to the American people.

Mr. HILLIS. Yes.

Mr. WHITE. Thank you very much.

Mr. HANLEY. Thank you, Mr. White.

Just one question, Mr. Hillis.

Is it fair to conclude, on the basis of what you have said, that you support the subsidy position contained in H.R. 15511?

Mr. HILLIS. I have not had a chance to acquaint myself in full with the provisions of the act. I think that some sort of a reasonable subsidy is going to be necessary if we are going to have adequate service, service at a cost that everyone can afford, without denying the service to many people.

Mr. HANLEY. Contained in the bill is a provision whereas up to 20 percent of the operating cost of the agency could be subsidized, the purpose, of course, is to accomplish, really, the intent contained in your bill.

Mr. HILLIS. Well, historically, we have always subsidized the Service, and I think that perhaps to get adequate service we are going to have to continue in that direction.

Mr. HANLEY. Again, our deep appreciation for your appearance here this morning.

Many thanks.

Mr. HILLIS. Thank you, Mr. Chairman. It is nice to be with you.

Mr. HANLEY. Our next witness this morning is Congressman Frank Evans.

Frank, it is nice to have you aboard this morning. I am quite aware of your deep concern about the status of the USPS. I am aware of the geographical problems within your district, so I am confident that your testimony will prove quite interesting.

STATEMENT OF HON. FRANK E. EVANS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. EVANS. Mr. Chairman, I appreciate being able to come before your committee.

Mr. White, it is nice to see you here this morning.

I would first like to express my appreciation to you, Mr. Chairman, for responding as you did to me many weeks ago when I related to you the difficulties we were having with mail service in Colorado, the Third District of Colorado.

As a result of your consideration and your counsel, we had hearings in Pueblo August the 2d in the presence of Mr. Smith, the district manager; Jack Powell, the senior government relations representative; and your counsel, Mr. Martin.

We had people appear before our hearing to tell of their postal experiences. Their experiences were not flattering to the Postal Service at all, and they spread over a wide spectrum of complaints.

I would like, with your permission, to have my statement entered into the record as though read, and then just give you some comments on it.

Mr. HANLEY. Without objection, the entire text will be contained in the minutes of the hearing.

Mr. EVANS. The first portion of our hearing, Mr. Chairman, was devoted to citizen and business complaint, and we had good turnout. The first witness, Mr. Roland Faricy of Pueblo, who complained about

the almost impossibility he had of keeping up a current inventory of automobile truck parts. The resupply of inventory depends upon data processing and their relationships by mail to firms many miles away. The long delay in the mail made it almost impossible for him to report to their centralized data processing center in time to inform them what he had sold and what his inventories were, so that the centralized inventory control system could then get items back in the mail to him in time for him to maintain a good inventory supply for his customers.

The delay of the mail almost destroyed this system of data processing inventory control.

We had, I think, one of the most touching complaints from a woman whose daughter was going to be married. Eleven days before a reception she was going to have for her daughter, she sent out invitations to 24 good, dear, personal friends, all of whom lived in Pueblo.

On the day of the reception, with the house and refreshments all prepared for the party, instead of 11 guests, only 4 showed up.

It turned out that 2 or 3 days after the reception most of the invitees, close personal friends, finally got their invitations. This may not be earthshaking in terms of a business problem, but in terms of a personal relationship you can imagine the consequences. This lady was wondering what had happened to 20 of her very dear friends on the occasion of a reception honoring the coming marriage of her daughter.

We had testimony from a bank officer, saying that because of the delay of mail they were constantly having problems with people who banked by mail with them. Deposits would be mailed and, assuming the deposits had been received by the bank and then checks were written against those deposits, only to find the checks returned, marked insufficient funds. This was embarrassing both to the patron of the bank and to the bank, because of the resulting stressed relationship. It was also embarrassing when it came to making payments on personal notes and house payments. Payments delayed in the mail resulted in default notices, and so forth.

We had testimony from other outlying cities, complaining that the new mail system that had been invoked in Colorado was causing delays of several days compared to former service.

We had a city official from the city of Montrose take a sampling of mail that was handled before the new system went in, and then an identical sampling of what happened after the new system went in. It revealed a deterioration of service.

I know, in one instance there was a gentleman who had built a dental laboratory business on the basis of a 1- to 3-day service anywhere in the State. I don't know the status of that business now, but it is becoming most difficult for him to continue because of the increased delay in the mails.

So, we had these kinds of objections during the morning hearing.

In the afternoon, we had 25 or 30 postal employees come in and tell of their grievances. It was hard for me to understand how these grievances could take place with good management and employee relationships.

Some of the employees, I remember, complained bitterly about going out to the airport to pick up incoming air mail, but being prohibited

under the new regulations from taking out air mail and putting it on the same plane that they were receiving air mail from.

Carriers who had been working routes for years, routes which had been 8-hour routes for years, suddenly found their routes changed, often expanded, expanded to the point where instead of an 8-hour route, they were spending $8\frac{1}{2}$, $8\frac{3}{4}$, and sometimes 9 hours on a route.

Then, we had a great problem in our employee relationships arising out of a decision in the district to handle mail out of Colorado Springs instead of sorting in Pueblo. They bulk shipped the mail up to Colorado Springs and handled it on the machines. They were going to have seven or eight employecs from Pueblo taken out of Pueblo and put into Colorado Springs on these machines so they could accelerate the use of these machines.

Well, in so doing, they were cutting themselves short of personnel in Pueblo, and found that the delays in the office itself at the windows, in handling customer problems and deliveries, were accentuated, maybe backed up from that, and they returned some of the employees to Pueblo.

What struck me as these employees were talking, as an outsider because I am not skilled in postal problems either from the labor or management side, was the extent to which there had not been good communication between the management and the employees. I also think there was a lack of good communication between management and the public.

All these facts that have come to my attention in my district, I know are not peculiar to Colorado. When we Members have lunch with colleagues from New York, California, or Florida, or other States, postal problems are always a common source of conversation. I believe there is a problem all over the United States.

I think the public has not been advised of the plans the Postal Service has. Decisions have been made without cranking in the public and finding out what their reaction and suggestions are. And I think all too often, changes have been undertaken without sufficient consultation with the employees.

For these reasons, I think some change is necessary in our postal laws. I agree with the former witness that Congress should not take back absolute rule over the Postal Service, but I think certainly there should be more oversight. I think there should be more public reaction cranked into decisions before they are made, and certainly better management and employee relationships in the future.

I also concur in the statement made by yourself and the other witnesses that we are never going to have good service for everyone in this country without some subsidy of some kind.

Mr. Chairman, that is the bulk of my statement. If you have any questions, I would be happy to answer them.

Mr. HANLEY. Thank you very much, Frank. Again, your testimony is most interesting, and particularly in the light of your recent hearings in Pueblo where you had the opportunity to exchange colloquy with a good number of people in that general area.

Since the implementation of the Reorganization Act of 1970, have you noted any improvement at all? Would you say that the status quo or—

Mr. EVANS. Since 1970?

Mr. HANLEY. Since the implementation of the Reform Act. Have you noticed any improvement at all?

Mr. EVANS. Well, when improvement occurs, people are happy. Members of the Congress rarely hear about it. It is only when people are unhappy that we hear the noise.

Mr. HANLEY. That being the case, then, is it fair to say that your complaints subsequent to the act exceed those previous to the act?

Mr. EVANS. Well, that would be a difficult one to answer, Mr. Chairman. Before the act, we had so many things that were brought to the attention of Congressmen because of the extent to which politics and congressional offices were inserted into the postal system, most of which were taken away by the passage of the act. So it would be very difficult to compare.

I think in the area of service, there is no question but what we have had an increase in complaints since the passage of the Act. A complaint we had before the passage of the act, which is a complaint we have now, too, but it may be in the nature of my Congressional District that brought these to my attention, was the constant complaint of small areas rural areas of a deterioration of their service. This occurred before the passage of the act.

And I still have this complaint. It recently came from an area around Trinidad, where one of the small communities was being notified their post office was going to be changed in location, another 7 or 8 miles away. Well, it meant to many of these people to get to and from this post office, they were going to have to drive a round trip of around 30 or 40 miles. This is typical of the type of rural complaints we get.

But I think it would be accurate to say, in terms of general service within the cities, the areas where you had fast, 1-day delivery, or 2-day delivery, there was a marked increase in the number of complaints that arose off this kind of service, a deterioration in this kind of service. I think there is no question but what kind of complaint has increased since the passage of the act.

Mr. HANLEY. Subsequent to the subcommittee investigation in your State, several improvements were implemented by the Service. And the Service subsequently indicated that overnight interstate delivery was at a level of 96 percent. Would you concur with this? Have you noticed that sort of improvement?

Mr. EVANS. I have not tested that. The city of Pueblo is in the process of making another mail testing. I hope to get the results of that at the earliest possible moment.

I can say that in the last several weeks, complaints that have come to my attention have diminished, both from the public and the employees. And yet, at the same time, as I walk in the cities of my district, it is not unusual, still, to have people come up and bring a particular complaint to my attention. And I know that many of the employees still feel that many of their grievances have not been responded to.

But by and large, I would say in the last 2 or 3 weeks, yes, the service has improved.

Mr. HANLEY. That is heartening to hear.

Because of the Colorado State simplified distribution system, what sections of H.R. 16386 do you think would prevent some of the problems that we have related to?

Mr. EVANS. Mr. Chairman, as I said in my opening remarks, having somebody, some people, some way, have greater oversight on their decisions, I think would be an improvement.

Section 2 of that bill requires the Postal Service to keep the Commission currently advised. I think that is a marked improvement.

Section 4 provides that no appropriation shall be made to the fund except pursuant to annual authorization. This would bring the Congress back in, I think, more forcibly and give it a chance to take all those complaints and observations Congress gets, into a section where you can pose problems to the Postal Section.

Section 5, which is the Commission power to initiate reviews and hearings which they should have.

Section 7, instead of the Commission just having advisory opinions, this bill would allow the Commission to make decisions.

Section 10, of the bill, would require regional hearings, not just now and then, but on a regular basis. I think this would go a long way in requiring the Postal Service, on a regional basis, to sit annually and to say people in a district or a region, if you have got complaints, now is the time to come and tell us. If you have suggestions, now is the time to come and tell us. I think we need this desperately.

As was said previously, I don't believe you can properly make decisions in Washington that are going to fit the whole country. I do not think you have to have one master plan that every district is going to have to force itself into.

My State is a good example of this. The eastern half of it is flat plains and prairies. The western half contains some of the most rugged mountains in the entire United States. This geographic difference has a marked effect on postal service. And those things have to be taken into consideration on a region and district basis.

So regular regional hearings, I think, would go a long way in bringing people into decisions before they are made. I have often wondered, as a Member of Congress, whether or not the Postal Service ever came up with an overall plan and said to this committee, or to the Congress, "This is our 5 year-plan; this is what we hope to do. We are going to have to have this many new buildings and this much new equipment and data processing machinery. And we feel, under this plan, in 5 years, we will be able to handle so much more mail and have much better service than we have today."

If they have, they have simply kept it a dark secret. I do not think the Congress or the people know what their plan is. And if the American people are going to go along with the problems the Postal Service has, they will go along only if they understand the problem. If they do not, they are going to be angry.

Mr. HANLEY. Well, there is a plan. Unfortunately, it has had a great deal of trouble getting off the ground. In part, the plan was dealt a severe blow just a few days ago with the decision to shelve about a quarter of a billion dollars in new construction in about five different areas where these new facilities are needed so badly. And a part of the overall plan requires total rehabilitation of facilities and systems.

But this sort of thing happening certainly throws quite a roadblock and detours the possibility of seeing the plan through to flourishing.

Mr. EVANS. Mr. Chairman, one more thing which I think I would like to bring to your attention. I have been so concerned about the

reports of Mr. Klassen spending hundreds of thousands of dollars on swank headquarters, plush carpets, and all this. I do not know how often in my district I have had people come up and not only complain about the Postal Service, but point to an article by Jack Anderson, or someone else, reciting all the lush fixtures in headquarters, and furnishings that the Postmaster General is spending on himself and the Board at a time when service is deteriorating.

As you know, in America today, American people expect something better of their leaders than spending money on themselves, lavishly, while the Postal Service suffers. It would make a big improvement in America's confidence if a department head knew what he was doing, should be caring, and was able to put everything he had into bringing a better system to this country. I must say, our current head has not done that, in my opinion.

Mr. HANLEY. Frank, how do you find the morale of the employees?

Mr. EVANS. Well, as of August 2, it was very bad. It was incredible to me to hear employees, 20 to 25 to 30 in one room all at the same time, in the presence of the district manager, talking about complaints and their impression of what the local postmaster did or did not have in terms of authority regarding working rules. It was just appalling to me to see this lack of real communication.

Sorting clerks saying that they had had four or five different schedules changes a year. We had to memorize and then forget as the routes were changed. Well, I can understand how somebody would be angry at being required to memorize and forget, and memorize again, four or five different schedules in 1 year. I can see how carriers would be angered by having their normal 8-hour route loaded with additional appointments they have to keep in delivering mail to a point where it is not an 8-hour route, but 8 hours and 20 minutes, 8½ hours, or 8 hours and 45 minutes, and have these routes switched and changed.

I know some of them were angered by the fact that inspectors would walk in the front door and out the back door. They wouldn't be there more than 3 or 4 or 5 minutes, if that. How inspectors can ever gain facts from such a short visit, and report to the district manager, no one knows, if that was a fact. And many employees believe that to be a fact.

The same is true on routes. A lot of carriers felt harassed by being advised to speed up their work. Don't walk on the sidewalks. Walk across the lawns. Move faster, and you can distribute more mail.

In short, Mr. Chairman, I found the morale to be lacking, seriously.

Mr. HANLEY. That is very disheartening.

Mr. Traxler?

Mr. TRAXLER. I wonder if the gentleman can respond to this question. There is something that I perceive, but I do not know if it is just because of my rose colored glasses. Do you feel that the managerial people within the service have a comprehension for the national contracts and local contracts? That is, do they really understand what is in those contracts as relates to the conditions of employment for the employees?

Mr. EVANS. Well, you are asking for my expression of feeling in regard to what is in their minds. And I cannot do that.

Mr. TRAXLER. Have you ever discussed this point with any of your postal workers? Have they ever talked to you about that point?

Mr. EVANS. No. The only thing I have gotten from my meetings with the employees and manager is that there sure could be better communications and understanding. It got to the point where morale was so bad—I cannot prove it—I think there was intentional sabotage going on on the part of the employees. I will give you an example.

We had the hearings I told you about in the morning where public witnesses came in. One of the witnesses was a banker. He testified in regard to the embarrassment of the bank not having checks cleared, and what have you. He left. He came back about 45 minutes or an hour later with a handful of mail, certified and registered mail, mind you, that he just found in the box of the bank at the post office. That does not happen by mistake. You do not get certified or registered mail accidentally put in somebody's box. To me, that was an intentional mishandling of the mails arising out of, I think, very poor relations between management and labor.

Whether or not the management had a full comprehension of what is required in terms of employee relations, I do not know. They could be following it to the letter for all I know, yet I believe there was poor communications.

Mr. TRAXLER. Thank you.

Mr. HANLEY. Thank you, Mr. Traxler.

And again, thank you very much, Frank.

Mr. EVANS. Again, Mr. Chairman, I want to thank you for your consideration in supplying your counsel to me, and helping me have this hearing on August 2. I learned a lot from it, and it gave my community and several others in the Third District of Colorado a chance to come to one place at the same time and exchange views and give testimony with regard to the problems they were having with the Postal Service. And I am very grateful for it.

Mr. HANLEY. We are delighted it proved a meaningful purpose. And certainly the staff has an excellent report on that hearing.

Again, thank so much.

[The complete statement of Congressman Evans follows:]

PREPARED STATEMENT OF HON. FRANK E. EVANS OF COLORADO

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear here today to urge your favorable consideration of the amendments to the Postal Reorganization Act of 1970, as set forth in H.R. 16386.

This bill is titled the "Postal Service Reform Act of 1975." I have joined with Mr. Buchanan and other members in co-sponsoring this measure for reasons which I shall outline below.

The factors that motivated Congress into restructuring the Postal System in this country in 1970 are familiar to us all. Not least among these reasons was a desire to achieve efficient mail service devoid of the political influence which had so hamstrung the old system. In our quest for this goal we created an independent Post Office Corporation with the hope and the theory that by doing so we could get a consolidated management free to take the necessary actions required for the goal of efficient but adequate service.

My fear is that the result of this hope and theory is quite short of the desired goal.

On August 2, 1974, in Pueblo, Colorado, I chaired a special hearing on the postal service in my district. Present at that hearing as panel members were: Mr. Arthur G. Smith, District Manager, Colorado Springs District USPS; Mr. Jack Powell, Senior Government Relations Representative, USPS and Mr. Richard Barton, Staff Director of this Subcommittee. Anyone with a complaint

on mail service was invited to testify at the meeting. I want to relate to you in summary form the comments of those who appeared.

The first witness to testify, Mr. Roland Faricy of Pueblo, works for Abell Trucking and Equipment Company. He reported a marked deterioration in the flow of material from their truck parts supply center in Chicago to the local operation. This has been caused by the inability of postal service to maintain any sort of reasonable, consistent and timely delivery schedule. All of this was caused by the institution of Area Mail Processing in Colorado Springs for Pueblo mail. In Mr. Faricy's case, a total of one week was added to his turnaround time on ordering parts.

The next instance I had related to me was by a lady who gave a shower for her daughter who was getting married. The lady sent invitations to 24 close friends 11 days before the shower. The day of the shower came. She got dressed up, prepared refreshments, the younger lady arrived and they both waited expectantly for the guests to arrive. Only four showed. The others didn't get their invitations until one or two days after the event. All of the mail was in-city. This I believe illustrates the type of problem that many people have faced in my area in Colorado.

At one point in the hearings, Mr. Robert I. Burch with the Minnequa Bank of Pueblo produced 15 letters which he had just brought from his bank and which had been misdelivered there that day.

Bankers in general reported that because of poor mail service "bank-by-mail" was being severely disrupted. Many people send in deposits which do not arrive on time and consequently checks written, often result in their over-drawing their accounts. This causes monetary loss, frustration and bad credit ratings.

Another gentleman, in the securities business, reported that he is now running into trouble with the Federal Reserve Board over Regulation T which relates to the extension of credit in securities transactions. The regulation requires that certain payments be made or certain procedures be followed within definite time frames. If the mail service is slow or inaccurate, his and other's stock transactions will and have run afoul of Regulation T. This involves, in turn, a loss of time and money to those involved.

The City of La Junta in my district was represented by Mr. Doyle Davidson at the hearings. Among other things he testified that first class mail is arriving 2-3 hours later in the day than it used to. This prohibits business from picking it up at 7:30-8:00 a.m. as previously done and tending to it before the beginning of the business day. The Otero County Treasurer, in La Junta, reported through Mr. Davidson receiving three checks from Chicago totalling \$100,000 which took 7 days to arrive. The daily interest on that amount ran to more than \$17.00. The County Treasurer further reported that it was becoming common to receive tax payments by mail from Fowler, Colorado, a distance of 29 miles, with postmarks that are seven or eight days old. Parcel Post packages mailed to Sacramento, California, from La Junta, used to take 3 days. Now 10 days must be allowed to insure timely delivery. In another case a city employee of La Junta received a letter from his relatives in Chicago who were coming to visit him. The relatives and the letter arrived the same day. The letter had a 15-day old postmark from Chicago. Further testimony by Mr. Davidson reinforced the pattern set out above.

Another example of poor mail service, which was repeated many times, was of mail being sent to people and the letters being returned marked addressee unknown—where the letters had the correct address right down to the zip code, and the addressee had long been a resident of the community.

The last people to testify were employees of the Postal Service. Their complaints ran from assignment of longer routes, elimination of routes in existence (sometimes for fifty years), inaccurate route investigation and forged reports by supervisory personnel to directives issued by management to delivery men to cut their delivery time by crossing lawns, etc. in violation of regulations and customer wishes to the contrary.

Two of the larger cities in my district conducted their own surveys in order to formulate a composite picture of mail service in their respective areas.

In Pueblo, the Regional Planning Commission interviewed people with the local hospitals, businesses, banks, savings companies and title companies. The summary of the study was:

"All agencies interviewed noticed a definite slowing of the mail service, and many businesses are finding it necessary to change their method of operation to accommodate slow mail delivery. Most of the problems created are sheer

inconvenience, rather than creating any monetary loss for people. However, in the case of the insurance company facing suits due to discrepancies in dating or the bank foreclosing on a customer's loan due to slow delivery of a notice, it is possible to see where the current system could cause serious problems for people unless these details are worked out."

In Montrose, the City Department of Economic and Community Development conducted a survey *before* and *after* the implementation of the Colorado State Simplified Distribution System of which Area Mail Processing is a part. They sampled 1,780 pieces before CSSDS and 1,970 pieces after CSSDS. The results of their study showed a decline of 5% in one-day service. At two days, the change increased 2%. This means that over 21,000 pieces of local mail are delayed one extra day per month. This figure is based on over 1,500,000 pieces of mail per month delivered through the Montrose facility.

Mail received from the rest of the state experiences an even larger delay; a 7% increase was shown in the study. This could amount to as much as 30,000 pieces per month.

Mr. Chairman, these examples are merely illustrative of the problems my constituents have faced. They have resulted primarily, but not exclusively, from the implementation of the Colorado State Simplified Distribution System. The core of that program is Area Mail Processing with the localized sorting, cancelling and redistribution of mail from a wide area of the state. In my district almost all mail is processed through Colorado Springs. Of course, the intent of this program was to provide more efficient mail service. The above examples of complaints along with the many I have not reported, well illustrate the failure of that goal.

The amendments provided for in H.R. 16386, "the Postal Service Reform Act of 1975," would prevent these types of programs from being implemented by the Postal Service until they had been thoroughly studied and the people to be affected had had a chance to provide their views on the proposed changes. Also, I believe the instances of closing and downgrading of post offices in my district which have been so disruptive would also have proceeded differently and more favorably to the public had these amendments been in effect.

In conclusion, I believe that favorable consideration of H.R. 16386 would go far in meeting the original intent of the 1970 Reorganization Act.

Mr. HANLEY. Our next witness this morning is Congressman John Buchanan.

John, it is nice to have you with us this morning. And I am quite aware of your long time interest in the U.S. Postal Service. And I am somewhat intimate with a particular problem you have had in the Birmingham area. So it is good to have you with us. And I am confident your testimony this morning will prove quite interesting.

STATEMENT OF HON. JOHN H. BUCHANAN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. BUCHANAN. Thank you, Mr. Chairman.

Permit me first to apologize to you, Mr. Chairman, and to the subcommittee for both the length of my statement, which I sought to summarize and will further seek to summarize as I go along. Given the extent of my years with the Postal Service, and my ideas concerning changes that ought to be made, I have had a little trouble boiling down my testimony.

Also, if my language seems harsh, the experience of the people I represent in the Postal Service has been even more harsh. So I hope the subcommittee will understand this.

Mr. HANLEY. John, for the record, if you do choose to summarize, without objection, the entire text of your testimony will be contained in the minutes of the hearing.

Mr. BUCHANAN. Thank you, Mr. Chairman.

May I say that our distinguished colleague, the previous witness before the subcommittee, the gentleman from Colorado, has very effectively, I think, summarized the provisions of H.R. 16386, which is an identical bill to H.R. 16163, which I mention in my testimony on which he has cosponsored with me. This came as a fruit of my own experience with the Postal Service and the study of operations that resulted from it.

I would like to commend you, Mr. Chairman, for your action in introducing H.R. 15511. I support the thrust of this legislation as being a step in the right direction toward greatly needed change in the Postal Reorganization Act of 1970, and the Postal Service. My own experiences and that of the constituents I represent have made me feel that we greatly need change if the American people are to obtain the service which they need and deserve.

I have been confronted with the kind of service in my own Congressional District. We have had unanimous testimony to this effect. For example, I have a contractor who sent in a bid on a contract in New Orleans from my city of Birmingham. He had the low bid. He failed to get the contract because the Postal Service did not deliver his letter in time.

I had a couple contact my office whose daughter had been married. They sent out invitations, they thought, in a timely fashion. The invitations arrived after the wedding and caused great commotion within that family.

These are two small examples. We have had the problems with the bank. We have had the universal complaint. Never in my experience from the time I was a member of this committee, or 10 years in the Congress, have I had the number of complaints about Postal Service that I have had since the Postal Reorganization Act of 1970. It is the universal opinion in my constituency that postal service is worse than ever, has radically declined. There has been no expression of any idea of improvement from my own constituency. And I have had many complaints such as the ones I have cited where people have been seriously disserved by failure of the Postal Service to function.

I cannot believe people who comprise the Postal Service have suddenly become much worse than they were before, in terms of clerks and letter carriers, and others who are part of the structure. I came to have a very high opinion of the caliber of the people who were a part of the Post Office Department, and may still comprise the Postal Service. We have some real excellence in personnel.

We have had a morale problem in my area which I think has been primarily due to management. Until recently, we have not had a permanent postmaster in my city for some time. We have a new postmaster, Mr. Charles Moore, under whose administration things are substantially changing for the better. He has been on the workroom floor. Many said they have not seen a postmaster for years. He is inspiring his people to put a high premium on service to the Birmingham area. He wants to make us No. 1 in service, he says, and he does a good job.

Mr. HANLEY. May I ask at this point, the postmaster you are referring to, was he native to the area?

Mr. BUCHANAN. He is a native of Alabama. He came to us from another State. But he is a native of Montgomery. He had good business

experience in addition to being a career postal serviceman, has excellent management, background, and primarily an attitude of a desire to serve the people, and requiring of himself, and of those who work with him, excellence in service.

I think we are going to be a lot better off because of his personal presence on the scene. But this has not changed the basic difficulties, of course, of the problems of the Postal Service.

My own frustration left me with no alternative but to file a class action suit in the Federal court to compel the Postal Service to comply with the law which created it. I have been joined in this action by a gentleman from Arizona, Mr. Steiger, and a gentleman from Tennessee, Mr. Duncan.

My own experience, as I indicated, prompted my introduction of H.R. 16163, the Postal Reform Act of 1974, which the gentleman from Colorado discussed briefly a moment ago, and which I would be prepared to discuss in further detail should the committee wish this.

Mr. Chairman, I think it is very unfortunate when Members of Congress have to go to court to get the Postal Service to serve the people of their constituency. And yet, it seemed to me this is necessary in my case.

As you know, one of the first sections of the Postal Reorganization Act of 1970 pertains to the service, and points out that, "The United States Postal Service shall be operated as a basic and fundamental service provided to the people." Its basic function should be the obligation to provide postal service, and it shall provide prompt, reliable and efficient service to patrons in all areas, and to all communities. And this section points up, very clearly, the intent of the Congress that service should be maintained and should have the highest priority in the Postal Service and in the creation of the Postal Service.

Yet, this has been a story of steadily declining service as the Postal Service has sought to reach the break-even point, which we also mandated. And it would appear to me there has been less and less emphasis on the actual provision of adequate, quality service to the people.

We have had the problem of Postal Service operating on a cloak of secrecy. I have repeatedly sought to obtain information and been frustrated in that attempt by the Postal Service, pertaining to changes in service in my congressional district.

Now, you are well aware of the provision of the Postal Reorganization Act of 1970, section 3661, which requires that the Postal Service, when contemplating a major change in services on a substantial, nationwide basis, shall first submit the proposals to the Postal Rate Commission, which shall hold hearings in which the public shall have a right to participate and give an opinion in writing before the Postal Service begins with the implementation of this program. In the 4 years since the Postal Service has been in operation, it has submitted not one proposal concerning service to the Postal Rate Commission.

For example, the preferential mail system program was proposed to spend \$4 billion of the taxpayer's money on a program which the General Accounting Office said was based on inaccurate studies and unacceptable equipment. This was not submitted nor have subsequent changes been submitted.

For example, the proposed \$1 billion bulk mail program, which will affect bulk mail service across the country, has not been submitted to the Postal Rate Commission, a program to eliminate postal districts to further insulate the Postal Service administrators from the people, and the national program to expend millions of dollars to close and relocate post office branches are among programs which have not been submitted to the Postal Rate Commission. And there are a series of additional things now in the hopper which have not, and apparently will not be submitted to the Postal Rate Commission.

The Postal Service has made a series of changes in service on a nationwide basis, in my judgment, none of which have been so submitted as the law requires. The bulk mail program, for example, is quite controversial. The General Accounting Office has raised questions concerning the economy and efficiency of operation. And in congressional hearings, and before the Postal Rate Commission, two primary arguments have been raised.

First, the bulk mail system is based on increased package mail, but United Parcel Service has captured a substantial portion of this mail. They are offering lower rates and faster service than the Postal Service. And the chances of the Postal Service recapturing any substantial portion of this mail seems slim, indeed. But for the bulk mail system, of which they are spending a billion dollars to work, they must recapture a substantial amount of this mail or business they are losing to the UPS.

A second argument which has been raised by a number of witnesses before this committee is that the \$300 million estimated annual savings projected by the Postal Service to the bulk mail program can only be achieved through the elimination of personnel. And our experience in Birmingham, and I expect elsewhere, indicates that when personnel are replaced by machines, a decrease in service tends to follow.

According to John C. Miller, the former Director of Transportation and Economic Development Division of the Post Office Department, who helped develop the bulk mail program, the bulk mail system will result in "21 white elephants." Yet, the Postal Service is proceeding with its implementation.

Now, the Postal Service came into my congressional district with implementation of the Retail Analysis Program as the No. 1 city in which it would be implemented. This program based on highly questionable and incomplete data in the case of my city sought to close post office branches and alter services in some 26 cities across the Nation, and with others to follow.

In my city it was scheduled to include the elimination of 23 branches throughout the area, and alterations in service in others. The first step in the plan was the downgrading of service in one of the highest revenue producing branches in the area.

Despite the nationwide effect of this program, the residents of the cities involved were not notified. The Postal Service officials in Birmingham, indeed, sought to effect the whole change with no advanced notification to the people affected. There was, of course, no notification to the Postal Rate Commission, or any attempt to obtain a judgment from them before this program was implemented.

We had a great protest from the citizens when they found out about the changes that were about to occur. We had a town meeting at which

we had Postal Services present in the town whose branch was to be the first one downgraded. There was massive protest.

Here is a little bit of my mail on the subject in this folder before you. We had telegrams from the Postal Users Council, the Postal Service Forum, urging them not to proceed with these changes. We had meetings with Postal Service officials on the part of the entire Alabama delegation, and on the part of citizens who came to Washington to meet with them, urging them not to make certain changes—removal of our district office, implementation of our district office, and implementation of the bulk mail, because of downgrading of service in our city.

All this fell on deaf ears. Not only an attitude of cynicism, but absolute arrogance, unwillingness to compromise, was what we were confronted with. Because they made it clear they would proceed with these plans, we went to court to seek to stop its action until it had complied with section 3661, and submitted these proposed changes to the Postal Rate Commission.

The net result was the district judge did rule with us on two of the three cases—on the elimination of further district offices, on the proceeding with the Retail Analysis Program, which is a program in which in our case they came into my city 2 years ago. Over a 10 day period, they interviewed people in certain branches, a limited number of questions. They kept a check for brief time as to what services were being purchased in that branch on that day.

They came back to Washington, fed the information into the computer. And 2 years later, based on that very skimpy evidence, they began to implement a citywide system of changes in which many branches will be closed, many others will be substantially altered.

In any case, the judge ruled with us on this, and the district elimination of the district office which they effected in the midst of our controversy over the changes made. They suddenly removed our district office right after declaring it the best they had in the Nation, and removed it to Atlanta where the management function would be further removed from the people who were doing the complaining, apparently.

We are now on appeal before the Fifth Circuit Court of Appeals on this court case. But the attitude of our systems unwillingness to share information, the unwillingness to provide us any information on the changes that were to occur in our city, the unwillingness to provide me as a Member of Congress information concerning these areas changed, the unresponsiveness, led me to believe there had to be some change in the system. The greatest enemy to human freedom has always been the concentration of too much power in too few hands. And we have in the Postal Service the only unregulated monopoly.

I was concerned about the amount of money that is being committed in the United States. There is no other unregulated monopoly. And it is a law to itself, and under no ones direct control as things now stand. It has ignored those provisions of law which give even the limited control in the area of service to the Postal Rate Commission which the law does contain.

I was concerned about the amount of money that is being committed without adequate planning, without anyone looking over their shoulder, in such programs as preferential mail and bulk mail. I am

concerned about the decline of services; I am concerned about the attitudes of the top personnel and the unwillingness to respond even to great expressions of public opinion concerning the vital services to the people. Hence, we went to court, and hence I have introduced my legislation.

Now the bill which I have introduced would seek to correct some of these difficulties. And the gentleman from Colorado has outlined it. Let me do so further.

The first major provision would require the Postal Service to keep the Postal Rate Commission fully and currently informed with respect to its operations. This provision which is similar to that in the Atomic Energy Act would mean the Postal Rate Commission would have access to the information necessary to evaluate the program and plans of the Postal Service.

Second, the Rate Commission would not find out at the 11th hour about some change the Postal Service is planning to undertake, or after the fact, when the postal users file a complaint with the Rate Commission. This would strengthen the hand of the Rate Commission, I think, in a needed way.

Another provision would dovetail with this and would authorize the Postal Service to hold hearings on proposed changes in the Postal Service—that is, the Postal Rate Commission—on its own initiative, rather than wait for a request from the Postal Service. And the Rate Commission would be authorized to subpoena evidence and witnesses in the event the Postal Service refuses to cooperate. We have much evidence of the Postal Service's reluctance to provide evidence even under subpoena.

In my own case, they have put everything in our court case under a cloak of secrecy. They sought to have me cited for contempt of court and my administrator cited for contempt of court for revealing to Members of Congress things that were about to take place in their congressional district. They sought to keep my lawyer from informing me of the motions they were making in the judge's chambers, such as attempting to get me cited for contempt of court. They have consistently refused information and sought to place a cloak of secrecy over all the plans that have come up in our court case that they have in the hopper.

Mr. Chairman, that isn't any way to run a railroad. We passed the Freedom of Information Act so that the people would know what their Government was doing. It is unconscionable that an agency of Government which has a total monopoly in vital areas of service to the people should be permitted to operate under a cloak of secrecy, even for Members of Congress, even from the people who will be vitally affected by their services, and even from the Rate Commission, which is supposed to exercise some authority over them. And I think this must change.

A third section of the bill would eliminate the authority of the Board of Governors to set salaries of high Postal Service officials, and place these individuals under the Federal Pay Comparability Act. I do not doubt the value of the people in the Postal Service, but I do frankly wonder if they are of this much greater value to the country than all Members of Congress, or Members of the Senate, or Federal judges like the ones who are ruling on our case. And I really

wonder if a regional postmaster should earn \$45,000, when the Federal judges in that region earn \$40,000, and Members of Congress \$42,500, and the assistants who earn \$50,000, or more.

I really think the Postal Service is about equal value to the country as the other agencies in Government. And a comparability pay scale for the top management personnel would be in order.

My legislation would require the Postal Service to obtain an annual authorization, so Congress would annually have control over it and have regular oversight, as was previously the case. As you know, this is required for appropriation and not authorization, at this point.

And another provision would give the Postal Rate Commission final authority over proposed changes and rates subject to court review. It would give the Postal Rate Commission final authority over proposed changes and postal services as well. Can you imagine A. T. & T. having the authority to overrule the FCC? That is unthinkable. Yet, that is the situation we have in the present law when it comes to the Postal Service over against the Postal Rate Commission.

My legislation would strengthen the hand of the Postal Rate Commission as well as of the Congress in oversight over the affairs of the Postal Service. We would provide through the House Post Office for the final authority to be in the hands of the Postal Rate Commission. We would require also the posting of a notice in any post office branch, announcing 60 days in advance, any proposed change in the services offered by that branch so that down in the individual community, at least, you have notification, no hearing required, but notification. Hearing is only in the case of nationwide changes.

We would require the Postal Rate Commission to establish regions for the purpose of holding regular regional hearings to enable the Commission to keep informed concerning the problems and ideas of postal operations.

This, in essence, would summarize what my bill would do.

Now, the Postal Service has been very critical of how things were when Congress ran the Post Office Department. Mr. Chairman, I have no desire to go back to appointment postmasters or getting into patronage or anything like that. But I will say to you without equivocation when Congress ran it, it appears to me it ran better. They needed money. We never gave them the money we should have given them. We wouldn't give them enough money out of the Treasury or let them charge enough for the mail to cover the costs of delivering the mail. We did not let them modernize and build facilities because we pinched pennies too much.

We did not let them do the things required to keep up with the growing volume of mail and growing population. And this is what was wrong with the Post Office Department—inadequate funds so there could not be modernization so the excellent people who were working there could not get the job done well enough.

I will submit to you, I do not want to go back to the old days. But the Post Office Department was better managed within those confines than appears to be the case with the present Postal Service. And I think the people's Representatives must have a strong hand in the operations and the quality of services, oversight of the quality of services, provided, and the other aspects of policy of a service that is vital to the American people.

I personally think it is a Government service to people like other Government services. And there has to be funding, in my judgment, from the Treasury. We must exercise—you, Mr. Chairman, must exercise—closer control of the operation of the Postal Service. And we must have the clear mechanism in the law to provide for this. The power of the pursestrings has always been the best way that we could do this in the House.

And, therefore, I would urge that this provision be included in any legislation this committee may produce. I feel that the American people are entitled to excellence in postal service.

I believe those who work for the Post Office, now the Postal Service, can provide such excellence and desire in the majority to do so. But we must change the law so that the managers are not a law unto themselves, so the management of the Postal Service cannot ignore the law and the intent of Congress, and so the people's Representatives can make certain that the people shall have the excellence which has been the tradition of the Post Office Department in this country from the days of the Pony Express.

I, again, apologize for the length of my presentation.

Mr. HANLEY. John, as I anticipated, your testimony is excellent. Obviously, you have put a great deal of time and effort into it.

Just a moment or two ago, I think you put it all in a nutshell in your position. Your statement was identical to my position several years back. Whereas we were saying that it was not necessary that we move in the direction of a reorganization act per se in developing a quasi-corporation, that if the Congress would recognize its responsibility to the U.S. Post Office Department and allow it such funds on an annual basis to upgrade its capital plant, we would not have the problem that we had. And as you said, had it not been for the dedication of the people, the institution would have crumbled long ago because the Congress was derelict in its responsibility to the agencies.

That plea, of course, fell on the proverbial duck's back during the course of the deliberations. And you will recall we had the rather influential citizens' committee for postal reform that advanced the concept and got its way much to the regret of so many who were involved in that activity.

You, like Frank Evans who preceded you, have displayed a great deal of initiative in putting together the piece of legislation that you have. And certainly, many of the provisions of it will be strongly considered as we move into the final stages of this procedure. Hopefully, many of the provisions will be contained in the package of amendments that will result from these deliberations.

The authorization matter that you have referred to, as you know, the matter of authorization has already passed the House. Unfortunately, it continues to languish in the Senate. That was Mr. Gross' bill which succeeded in committee, succeeded on the floor of the House. Unfortunately, the Senate, up to this point, chose to do nothing with it. However, the provisions of that bill are contained in the subcommittee bill where, once again, the Congress would have a handle on that institution and people responsible for its administration would have to account for their requests and their expenditures.

With regard to the matter of subsidy, you covered that. There is no way that that institution is going to be able to function unless it is subsidized through the U.S. Treasury.

As you know, currently, it is working with something like a \$500 million deficit that requires that these dollars be borrowed at the extremely high rate of interest that prevails today. Other barometers, as I mentioned again to your predecessor witness, the action taken a day or two ago where the construction program, in part, is being shelved because of the physical problem, if we are going to shelve the program, then the whole theory of revitalizing the system is junked.

John, come February, according to the plan, the target date of the Rate Commission that will, at that point, hopefully dispose of the "temporary rates that presently prevail," and in recognition of the fiscal dilemma of the institution, it is reasonable to believe that right on the heels of that decision will be another proposal for a general rate hike. What would the reaction of your constituency be to such a hike early in 1975?

Mr. BUCHANAN. It would be very adverse, I am sure. Perhaps we have not appreciated in this country the bargain we have had in postal services through the years in terms of cost to the user. But we have had it. Perhaps we took too much for granted, the degree of excellence which we always had, at least in my area, in the Postal Service, but we did have it. And having, right on the heels of such a decline in services and such arrogant mistreatment by the Postal Service of my own constituents, especially, I think, the reaction would be livid to increases.

And I think, personally, again, the route of subsidy out of the Treasury is still the more acceptable route to something I must still recognize to be basic Government service to people of this country. But I think we have had a bargain through the years and perhaps have not appreciated the degree to which we were getting the bargain.

Mr. HANLEY. You are so right. It was all taken for granted. And as these rates tend to increase, it is a little difficult for that person to recognize details or accept the increases.

Mr. BUCHANAN. Mr. Chairman, can I briefly clarify something? I am afraid I got so lost in my written testimony, I did not make clear what happened in my district and how in 1970—

Mr. HANLEY. Sure.

Mr. BUCHANAN. We had the good fortune of having built in our area a new postal facility, beautiful new postal facility, the latest equipment.

Mr. HANLEY. Was this in Birmingham?

Mr. BUCHANAN. Birmingham. We were a district office, and there were seven in Alabama. We were often declared to be a very good and highly efficient postal district.

On the retail analysis program, no one announced they knew about it until they were about to implement it. And in a way, that would have been very damaging with the downgrade of services in the first step and many others to follow. This got the people upset. When they became upset, they suddenly removed the Birmingham District, eliminated it, and put the seven sectional centers in Birmingham in Atlanta. And the management was used there. They sent men in to accomplish these changes that were very insensitive to the people.

The new postal facilities had the latest equipment in handling bulk mail, does have as good as they have now. It was announced, in con-

nection with the other things, that the information came out that the whole bulk mail function would be transferred to Atlanta. This was what they were planning to do as one of 21 bulk mail facilities in the country that was now under construction which they committed \$1 billion.

Their experience to date with this would indicate that while long haul mail that has to go through the major transportation center like Atlanta, anyway, might be more efficiently served by handling it this way. They have real trouble with shorthaul mail taken to Atlanta by truck through Birmingham, run through that facility when it is built and run back from Tuscaloosa, about 60 miles down the road from Birmingham, for delivery.

The short haul, they have not been able to demonstrate would result in anything other than declining service. And you would inundate the transportation services that are already, by the postal services own admission, too much inundated with mail. All this new mail from the surrounding States and areas of the short haul mail is being dumped on that facility for handling.

The only plan was to take my bulk mail facilities that had just been built, tailor-made for my post office building, and put it out of business and take the whole mail and send it to Atlanta. Obviously, my constituents got very upset over this whole idea. Our new postmaster has managed to hold on to the bulk mail for our area, and he is going to get use out of that \$3 million machine to provide better service to the people. He has been able to talk his managers into letting him do something logical with it.

But I wanted to mention this to make clear the nature of the bulk mail program especially, and the fact that this committee should take a look at the plans there and also the unresponsiveness to the postal service when they planned these various changes that had such a strong effect on my district to do anything until we went to court to try to force them to pay a little attention.

Mr. HANLEY. What is the distance from Birmingham to Atlanta?

Mr. BUCHANAN. It is just 135 miles. The distance itself is not too great a problem, but we do not have an interstate. We have a very bad, two-lane highway a good part of the distance. Of course, we have air service that is pretty extensive.

Mr. HANLEY. And the regional headquarters is located where?

Mr. BUCHANAN. The region is Memphis. We formerly reported directly to Memphis. We have seven sections in Alabama of which Birmingham was one. We reported to Memphis as our region.

Mr. HANLEY. What is your observation on the morale of the employees?

Mr. BUCHANAN. The morale of the employees has been better since Charles Moore arrived on the scene. But, up until that time, it was the worst in my experience. These are good people. Even the supervisory personnel who had to implement the policies were not at all happy with what they were having to do. And they were not at all happy with the postal services performance in my area.

Mr. HANLEY. What is your rapport with the postal employees? Do you find a reluctance on their part to communicate with you when they do have a problem?

Mr. BUCHANAN. Greater reluctance than before, Mr. Chairman. But some of them do so anyway. At the risk of their lives, perhaps, but they do.

Let me tell you one more footnote about this downgrade facility. They were going to mechanize this facility that had been a full service branch. It served a big office park and 20,000 person community and was No. 3 in the top 10 revenue producers in the area. They moved into a new facility and had more machines. These machines are designed to supplement window services.

But, in our case, they refused at first to give window services. So they had machines. Well, the machines would only work with dollars or less. And people had wonderful experiences with machines.

One person tried to buy a stamp. They lost their first coin. They lost their second coin. They put in the third coin, and a French franc came out of the machine.

And it became clear after a few weeks of operation there was no way you could make those machines serve the public anyway at all unless you had personnel at the windows, which is what they were designed to do anyway, to supplement window service.

So, at great expense, after they had flatly refused to put in the window service and designed without the window service, they had to go in and remodel again at further expense and put the window service back in and people back in which is what we asked for at the outset and which could have been done without any interruption of services and additional expense to the government.

This is a little thing, but this is the kind of experience that makes me feel some degree of supervision is necessary on the part of the Congress of Postal Rate Commission.

Mr. HANLEY. Well, again, John, on behalf of the committee, our deep appreciation for your input here today. And, as I say, I admire and commend the effort that you have for a long time made in an attempt to rectify the shortcomings that prevail. So, for what it is worth, you are helping the efforts of this committee greatly.

Mr. BUCHANAN. Thank you, Mr. Chairman. Again, I apologize for the length of my testimony.

Mr. HANLEY. Thank you very much.

[The prepared statement submitted by Congressman Buchanan follows:]

PREPARED STATEMENT OF HON. JOHN H. BUCHANAN, JR.

Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to testify before you today on a matter which touches the lives of virtually every American, the United States Postal Service.

I would first commend the chairman for his action in introducing H.R. 15511. I support the thrust of this legislation as being a step in the right direction toward greatly needed change in the Postal Reorganization Act of 1970 and in the Postal Service.

My experiences with the Postal Service, particularly over the last year, have made me even more aware of the deficiencies of the Postal Service and of the need to correct such deficiencies if the American people are to attain the quality postal service they need and deserve.

It is with regret that I am here today—regret that this agency, which for many Americans is the embodiment of the federal establishment and which we created four years ago to serve the people, has failed both as a governmental representative and as a servant.

The declining service in my own congressional district and my frustration over the lack of concern shown by the Postal Service over this situation left me no

alternative but to file a class action suit in Federal District Court to require the Postal Service to comply with the law which created it, the Postal Reorganization Act. I have been joined in this action by two of our colleagues, the gentleman from Arizona, Mr. Steiger, and the gentleman from Tennessee, Mr. Duncan.

Likewise, these experiences prompted my introduction of H.R. 16163, the Postal Reform Act of 1974, which I will discuss more fully in a few moments.

That members of Congress and the people should be forced to resort to court action to get a federal agency to do its job is deplorable. But the position of the Postal Service with regard to this declining service reflects what has become a growing pattern of practice by this agency and that is a pattern of ignoring the laws which apply to it and the people it purports to serve.

One of the first sections of the Postal Reorganization Act of 1970 states as follows: "The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary and business correspondence of the people. It shall provide prompt, reliable and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people."

It is my hope, Mr. Chairman, that one day those who rule the Postal Service might take the opportunity to read Section 101 of the Postal Reorganization Act which outlines postal policy. I am sure its provisions would come as a shock to many of them.

The Postal Service has continued to open its right hand to the Congress and the taxpayers for money, but has hidden the expenditures of these funds by its left hand under a cloak of secrecy. At a time when we are attempting to bring under control the cruel tax of inflation, we can ill afford not to scrutinize every major federal expenditure to insure that American citizens are receiving the greatest benefit from their tax dollars.

In enacting the Postal Reorganization Act of 1970, the Congress sought to give the Postal Service the tools to provide better service at less cost to the taxpayer. The past four years have shown, however, that the confidence placed in this agency by the Congress has been violated. Instead of rising to the challenge, the Postal Service hierarchy has ensconced itself as an arrogant oligarchy which operates the only unregulated monopoly in the country and which has ignored the very law which created it.

A prime example of this attitude is the Postal Service's position with regard to Section 3661 of the Postal Reorganization Act of 1970.

When Congress enacted this legislation, it wisely, in my judgment, included a provision which requires the Postal Service, whenever it undertakes a major change in services on a nationwide basis, to submit these proposals to the Postal Rate Commission. This section provides:

"(a) The Postal Service shall develop and promote adequate and efficient postal services.

"(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal within a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change.

"(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under Sections 556 and 557 of title 5 has been accorded the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title."

In the four years since the Postal Service has been in operation, it has submitted not one proposal concerning service to the Postal Rate Commission, despite its earlier misconceived fiasco known as the preferential mail system, in which the Postal Service proposed to spend \$4 billion of the taxpayers money on a program which the General Accounting Office said was based on inaccurate studies and unacceptable equipment.

Notwithstanding this experience, the Postal Service is undertaking, without submission to the public or to the Postal Rate Commission a highly question-

able \$1 billion bulk mail program which will affect bulk mail service across the country, a program to eliminate postal districts to further insulate the Postal Service administrators from the people and a national program to expend millions of dollars to close and relocate post office branches.

Two particularly strong arguments concerning the efficiency and economy of the bulk mail operation have been raised against this program in congressional hearings and by the General Accounting Office and in rate cases before the Postal Rate Commission.

First, the bulk mail system is based on increased package mail, but United Parcel Service has captured a substantial portion of this mail, offering lower rates and faster service than the Postal Service. Thus the changes of the Postal Service recapturing a substantial portion of this mail are slim indeed.

Secondly, a number of witnesses before this Committee and others have estimated that the \$300 million annual saving projected by the Postal Service for the bulk mail program can only be achieved through the elimination of personnel. My experience with Postal Service programs whereby personnel were replaced by machines reflects a decrease in service rather than an increase.

According to John C. Miller, former director of the Transportation Economic and Development Division of the Post Office Department, who helped develop the Bulk Mail program, the Bulk Mail System will result in "21 white elephants." Yet the Postal Service is proceeding full steam ahead.

Efforts to ascertain additional information about the implementation of the retail analysis program and the program to eliminate postal districts has proven difficult because the Postal Service has provided spotty and often conflicting reports on these programs.

The effects of these three programs are being felt in my congressional district and I am concerned that their further implementation in like manner on a nationwide basis will continue to result in substantial costs to the taxpayer in the form of greater tax dollar expenditures, higher postal rates and increasingly poorer service.

The first of these programs to be implemented in the Birmingham area was the retail analysis program under which the Postal Service, using highly questionable and incomplete data, sought to close post office branches and alter services in some 26 cities across the nation. Plans were being undertaken to expand this retail analysis program to other cities in the future.

The program in Birmingham was scheduled to include the elimination of 23 branches throughout the area and the alteration of services in others, with the first step in the plan calling for the downgrading of services in one of the highest revenue-producing branches in the area.

Despite the nationwide affect of this program, the residents of the cities involved were not notified of these plans. Postal Service officials in Birmingham, as a matter of fact, were rather disturbed that they were unable to carry off their coup without the people finding out about their proposal.

Although the people did learn of this plan, through a leak by some unpatriotic individual, the protestations of the citizenry fell on deaf ears. The Postal Service had made up its mind and did not want to be confused with the facts.

And so, the Postal Service proceeded with its downgrading program, expending taxpayers dollars to remodel a postal facility to eliminate a number of services despite a court injunction which I had obtained earlier against such action.

Then, six months after our original protestations to these plans and after the court injunction against further implementation of the retail analysis program nationally, the Postal Service reversed its decision—spending more of the taxpayers dollars to again remodel the same facility—this time to provide the services that the people of that community need and want.

This decision did not mark any major change in the philosophy of the Postal Service in Washington, although Postmaster General E. T. Klassen did admit that the Postal Service had made a mistake. Rather, it was a decision by the new Birmingham Postmaster Charles Moore, that the people of the Birmingham area deserved more service than they were getting. It is unfortunate that Mr. Moore's outlook is not shared by those higher up in the Postal Service. I would note here that Mr. Moore's appointment marked the first time in nearly two years that we had a permanent postmaster in Birmingham.

In the midst of the controversy over the retail analysis program, the Postal Service struck again in my district, this time to implement a plan which Assistant Postmaster General Dorsey said would eliminate 86 postal districts across the country. Again, this program was undertaken without the knowledge or consent of the people living in the areas involved and with the strong opposition of

major mail users in my district and the Postal Users Council which the Postal Service itself had created, but which it failed to consult.

The district manager and his assistants are charged with management decisions. Thus in eliminating these districts, or in consolidating them with other districts, the Postal Service is removing from the people they affect, vital decisions with regard to mail service.

Those within the Postal Service oligarchy will tell you that the district manager and his assistants have nothing to do with moving the mail and mail service. But I would call your attention to the testimony under oath in federal court of one of these officials concerning the duties of the district managers. According to then acting Birmingham Postmaster Francis Sutton, who I might add was a witness for the Postal Service during a hearing on my court suit, "A district headquarters, in an administrative level that in turn interprets policy, passes it on to subsequent sectional center facility managers. It relates to budget, meeting of delivery standards and all of those many things involved in administering a postal district."

In the case of Birmingham, where transient postmasters unfamiliar with the local situation were interpreting these policies, our postal facilities were scheduled for downgrading. When a permanent postmaster arrived on the scene, a man familiar with Alabama, these services were restored.

Because my investigations into these two programs led to additional information concerning the Postal Service's plans on the Bulk Mail System which would further downgrade service in the Birmingham area and make obsolete recently installed bulk mail equipment, I amended my original complaint to include the bulk mail program as well.

Following a hearing on this suit in early May, Judge James Hancock of the Northern District of Alabama issued an injunction against the Postal Service prohibiting it from the further implementation of the retail analysis program and the elimination of other postal districts. The judge did not halt the continuation of the bulk mail program because of his concern that to do so would cost the Postal Service more than not granting an injunction would cost the people.

Two main concerns prompted my court action, my legislation and my testimony here today. The first is that the Postal Service has apparently adopted the philosophy that it will cut costs regardless of the effect on service and the people. Even in this effort, however limited it may be, the Postal Service has failed. The service is declining. The people are unhappy. The costs are steadily increasing.

My second concern is that the Postal Service apparently has the attitude that the Congress and the American people who are footing the bill for these vast expenditures have no right to know what the Postal Service is doing with our money.

Despite the Freedom of Information Act, which should make available the information I and other members of Congress have sought about these programs, the Postal Service has continually surrounded its plans in a cloak of secrecy from me, from other members of Congress and from the American people.

The information provided as a result of subpoenas we have issued has been limited and, in virtually every instance, the Postal Service has sought to have this information sealed.

Not only have I not been provided this information, but the Postal Service sought to cite me and my administrative assistant for contempt of court when we informed other members of Congress of even the limited information we had obtained concerning proposed Postal Service changes affecting their districts. Attorneys for the Postal Service even attempted to prevent my attorney from informing me of the contents of motions and affidavits filed in my own court suit.

This ongoing failure to provide information to the Congress, the public and the Postal Rate Commission is one of the primary reasons that the Postal Rate Commission has been unable to act expeditiously on rate cases in the past.

We cannot continue to rely on the courts alone to prevent the Postal Service from doing wrong.

It would appear that the best solution is to amend the Postal Reorganization Act to close the loopholes through which the Postal Service is ducking its responsibilities to the people and cloaking its activities.

It is too late to achieve economy and service when we have to try to undo the damage which the Postal Service, through its hastily initiated programs, has perpetrated upon the American people.

Unfortunately, the problems which I have described are not unique to my congressional district and I would like to take this opportunity to again commend

the chairman for his efforts, through H.R. 15511, to help restore service to the Postal Service.

It appears that Congress has had to subsidize the Postal Service to an even greater extent than it did the Post Office Department. Despite these continued subsidies and increases in rates, services have continually been downgraded in an attempt to arrive at a break-even point.

Given the continuing subsidies which Congress is already providing the Postal Service, it would appear that some form of subsidy, such as that provided in H.R. 15511, might be necessary for at least the immediate future if quality of service on the one hand and the cost of mail to the user on the other is to be maintained at any acceptable level. In any case, Congress should require an annual authorization such as that envisioned in H.R. 15511.

With regard to the Postal Rate Commission, I would concur with the Chairman that this body ought be strengthened, as it is in H.R. 15511, so that it can become a truly regulatory agency. The provisions of H.R. 15511 which eliminate the review by the Board of Governors of the Postal Rate Commission decisions are similar to those included in legislation which I have introduced and I believe such an amendment would be vital if we are to provide better service. Can you imagine the board of directors of AT&T having the authority to overrule the Federal Communications Commission?

I would, likewise, concur with the Chairman's recommendation that the appointment of Postal Rate Commissioners be subject to confirmation by the Senate.

Given the degree of difficulty which my colleagues and I have encountered in obtaining information from the Postal Service, an experience shared by the Postal Rate Commission, it would appear that an extension of the deadline for action by the Postal Rate Commission on proposed rate increases from the current 90 days to 180 days is certainly in order.

I would now, and I will attempt to be as brief as possible, like to summarize the provisions of H.R. 16163 and H.R. 16386, the Postal Service Reform Act of 1974, which I introduced earlier this year with co-sponsors.

The first major provision would require the Postal Service to keep the Postal Rate Commission "fully and currently informed" with respect to its operations. This provision, which is similar to that in the Atomic Energy Act, would mean that the Postal Rate Commission would have access to the information necessary to evaluate the programs and plans of the Postal Service. Secondly, the Rate Commission would not find out at the 11th hour about some change that the Postal Service is planning to undertake or after the fact, when a postal user files a complaint with the Rate Commission.

A second provision would dovetail with this one in that it would authorize the Postal Service to hold hearings on proposed changes in the postal service on its own initiative rather than wait for a request from the Postal Service, which it appears would be an eternal wait, or upon the submission of a complaint.

The Rate Commission would also be authorized to subpoena evidence and witnesses in the event the Postal Service refuses to cooperate and we have much evidence of the Postal Service's reluctance to provide evidence even under subpoena. Failure to obey the subpoena could result in contempt of court citations.

A third section of the bill would eliminate the authority of the Board of Governors to set salaries of high postal service officials and would place these individuals under the Federal Pay Comparability Act. I have seen no indication that Regional Postal officials or high postal officials in Washington are better qualified and more able to serve the public than comparable officials in other federal agencies. If my experiences are any indication, the opposite is true. I can, therefore, see no justification for paying these individuals at a higher rate than comparable federal ranges.

Another provision of H.R. 16163 would require that the Postal Service come to Congress to obtain an annual authorization. While I realize this would create more work for this Committee, I believe the benefits of enabling Congress to review the policies and expenditures of the Postal Service would far outweigh the increased work load.

As I mentioned earlier, yet another provision of H.R. 16163 would give the Postal Rate Commission final authority over proposed changes in rates, subject to court review. It would also give the Commission final authority over proposed changes in postal services as well.

The Postal Reorganization Act provided for submission to the Postal Rate Commission of proposed changes in the nature of postal services. Because the Postal Service has sought to interpret this section in a manner which differs substantially from what Congress intended, Section 8 of the Postal Reform

Act of 1974 would further define such changes to include the transmission and delivery of mail, the planning, building or discontinuing of any postal facility or equipment and the allocation of personnel to perform postal services.

This section would also require the posting of a notice in any post office branch announcing 60 days in advance any proposed change in the services offered by that branch. This would give the residents of the affected community the opportunity to comment on any changes which they believe would result in the reduction of postal services.

Section 10 would require the Postal Rate Commission to establish regions for the purpose of holding regular regional hearings to enable the Commission to keep informed concerning the problems and ideas of postal users in relation to postal operations. It is obvious, Mr. Chairman, that the Postal Service certainly does not have all the answers.

This in essence, summarizes the actions which I believe ought to be taken if the Postal Service is to become more efficient and more responsive.

Mr. Chairman, if the United States Postal Service were a private concern, it would be out of business. No private entity could continue to increase its prices, reduce its services and ignore its customers in the manner in which the Postal Service has done and still retain its customers.

Yet, because it is the only unregulated monopoly in the country, the Postal Service continues to operate in this manner.

We in the Congress have the authority to restore service to the people. We not only have the authority, but should we fail to take positive action, we would be as negligent to the needs of the American people and our constituents as in the Postal Service itself.

Postal Service officials will, no doubt, object to any greater role by Congress. The Postmaster general continually refers to the deficiencies of the Post Office Department, and I quote "when Congress ran it."

No knowledgeable person, however, could maintain that the Congress ever ran the Post Office Department. We exercised the same kind of oversight over the Post Office Department that we did the rest of the government. We did participate in the selection on a patronage basis of various persons in the Post Office Department such as local postmasters. Nothing would be more unwise, however, for a politician than he select some deadhead on a purely political basis to manage an operation providing such important and basic services to the public.

Nothing he could do would more surely incur the wrath of the people against him, which is hardly a happy position for a man who has to be elected by the people. Consequently, those who participated in patronage conscientiously sought to select competent people for these important assignments. Such people, in turn, ran the Post Office, not the Congressmen and Senators. I do not wish to return to such a patronage system, but the public interest demands that oversight by the people's representatives over this aspect of government be restored, at least to a degree comparable to that of other agencies. The people have the right to know what every agency of their government is doing and they have a right to be the ultimate authority over every aspect of government, including the Postal Service.

We need no authority higher than the people in this country nor any governmental entity which seeks to exercise its power and authority unrestrained by the system of checks and balances so wisely built into our tripartite government by the founding fathers of this country.

Thank you, Mr. Chairman and members of the subcommittee, for your patience.

Mr. HANLEY. Our next witness this morning is Mr. James J. La Penta, Jr., as director of the Federal Public Service Division of LIUNA, AFL-CIO. I am glad to have you with us this morning, Mr. La Penta.

STATEMENT OF JAMES J. LA PENTA, JR., DIRECTOR, FEDERAL PUBLIC SERVICE DIVISION, LIUNA, AFL-CIO

Mr. LA PENTA. Thank you, Mr. Chairman.

I have a prepared statement I would like to read in the record, and I have a supplemental statement I would like to put in the record, if that is OK.

Mr. HANLEY. Without objection, so ordered.

Mr. LA PENTA. Mr. Chairman and members of the committee, I am representing the Mail Handlers Union which has national exclusive recognition for 47,000 mail handlers working in postal facilities throughout this country.

I wish to commend the chairman and members of the committee who for the past 18 months have conducted intensive hearings and studies regarding the U.S. Postal Service. These hearings have not been mere window dressing, and as a result, the chairman and his committee have compiled a comprehensive record on the state of the Postal Service.

The committee's hearings and staff studies have pointed up key areas of possible amendments to the Postal Reorganization Act which established the U.S. Postal Service in 1970. The Mail Handlers Union, Mr. Chairman, would like to go on record in support of H.R. 15511 as proposed except where you propose to amend the statutes governing the postal monopoly of letter mail.

I would like to make two observations before specifically addressing my remarks to H.R. 15511:

(1) A recent poll indicated that, for the first time, a majority of persons questioned thought big business should be broken up. Popular criticism of big corporations is at an all-time high, especially after the food and energy price gouges.

Americans are not going to take kindly to steep and regular increases in postal rates as has been openly hinted by the "top brass" who advise Postmaster General Klassen and who admitted as much at this table on July 9, the Senior Assistant Postmaster General for Finance, the chief legal counsel, the Senior Assistant Postmaster General for Operations, and the Senior Assistant Postmaster General for Administration.

My second observation is that the spiraling "double-digit" inflation the advisers to Postmaster General Klassen talked about was absent of any real explanation.

The major part of the "double-digit" inflation is due to a dizzying array of shortages; that is, fuels, industrial materials, and capital equipment. Mr. Simon, the Secretary of the Treasury; Mr. Rush, the President's economic "czar," and Mr. Stein, former head of the Economic Council, pointed this out a number of times in recent months. Yet the U.S. Postal Service testified they will move pellmell into massive billion-dollar outlays for capital machinery, capital construction, for the 21 bulk mail centers—competing for these inflationary shortages.

The U.S. Postal Service is locked in to the concept that the labor-intensive industry of the U.S. Postal Service has to be changed overnight to a capital-intensive industry—100-percent mechanized.

Now, Mr. Chairman, as to the substantive provisions of H.R. 15511, the U.S. Postal Service Senior Assistant Postmaster General for Operations, the Senior Assistant Postmaster General for Finance, the Senior Assistant Postmaster General for Administration, the chief legal counsel, and Postmaster General Klassen specifically rejected out of hand your proposals on subsidies and your "break-even" concept.

I should say and qualify that our union supports your two proposals because they are realistic and contain elements of good commonsense

when you take a hard look at today's economic conditions—abroad and at home. These are conditions which the administration is predicting will be with the United States and the Western European countries for many years to come.

The chief legal counsel's comments were particularly stubborn in addressing his responses to Congressman Ford's proposed amendments to section 410 of the Postal Reorganization Act which would clarify postal workers coverage when Congress amends fringe benefits for Federal workers. We support these amendments which would clear up once and for all what was the unquestioned intent of the act, and which the U.S. Postal Service has fought for 4 years.

The Senior Assistant Postmaster General for Finance's explanation of (1) fully-allocated cost, (2) fully-distributed cost, and (3) marginal cost ascertainment was professionally esoteric and inclusive. We submit your proposal on subsidies and other related matters in H.R. 15511 provides a direct and practical solution rather than the complicated mystique that the Senior Assistant Postmaster General for Finance suggested in his—shell game—description of allocated, distributed, and marginal cost ascertainment.

The Senior Assistant Postmaster General for Operations comments about service performance and, particularly, the bulk mail centers program do not stack up with what other reliable sources have submitted to the committee on service standards today as compared to 1968.

I think you are right on target when you say—and I am quoting from one of your releases, Mr. Chairman:

The rising cost of postage has shown us that we cannot have efficient postal service at reasonable cost to the user unless we provide funds to the Postal Service to defray its public service costs. Therefore, I am proposing that the Postal Service be reimbursed for an amount of up to 20 percent of their total operating expenses for the immediately preceding fiscal year.

I also think, Mr. Chairman, you hit the bull's-eye when you said—and I am going to quote you again:

By passing the Postal Reorganization Act of 1970, we mandated the separation of Postal Service matters from politics. We did not, however, abdicate our responsibility to the American people to oversee the functions of the Postal Service in order to assure that all people receive the best possible service. The legislation requires the Postal Service to be accountable for its expenditures and will enable Congress to keep a closer check on Postal Service functions.

The committee's questions on July 9 raised many objections from the "top brass" who advise Postmaster General Klassen. They fail to recognize that the Congress makes public policy and not the advisers to the Postmaster General. It seems clear that your legislation proposes a congressional mandate that the USPS will remain a constitutional service and not a public corporation that will follow a hard line "break-even" concept. You stated:

I want to point out that postage rates will continue to skyrocket and non-economic but important postal services could become a thing of the past if we continue to follow a hard line on the "break-even" concept.

Your legislation will enable Congress to oversee the functions of the Postal Service.

Mr. Chairman, if Congress adopts this proposal, I propose that H.R. 15511 also include the abolishment of the board of governors and the elimination of the postal advisory council. Matters of advice and over-

sight belong in the Congress with the elected representatives of the people.

Our union also thinks you were quite realistic when you pointed out to the USPS that they can't keep the status quo with regard to the private express statutes which govern the postal monopoly with regular 3 cents to 5 cents postal rate increases which the Postmaster General's staff were predicting here on June 9.

Mr. Chairman, on the question of the postal monopoly, our union is in strong opposition to the amendment to H.R. 15511 regarding the private express statutes which provides specific exclusion for items like newspapers, et cetera, even though these have been historically suspended. Despite that, we are strongly opposed to making this historic suspension, this de facto suspension, de jure.

Our union supports the changes in the structure and operation of the Postal Rate Commission contingent upon keeping intact the amendment regarding public subsidies annually authorized by Congress.

Our union supports the recommendation in H.R. 15511 to place the Postal Service under the Administrative Procedures Act and supports Congressman Ford's position that notice in advance be sent to Congress.

The bill's proposal that would give the Postal Service the right to represent itself in court without prior consent of the Attorney General is long overdue. We support that proposal also.

Now, Mr. Chairman, we urge the inclusion of the following amendments to H.R. 15511 not now in the proposed legislation which deal primarily with the labor-management section of the act: (1) We would request and recommend including the following language bringing the USPS under the National Labor Relations Act, as amended, section 502 which was inadvertently left out of the legislation:

Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

That language would allow postal workers to withhold their services in the event they are compelled or ordered to work in an unsafe job or in an unsafe area. The provision is already in the National Labor Relations Act. That kind of withholding of labor is not construed as a strike.

I do not have to take up a lot of your time; I have appeared before your committee before, and I have talked about postal safety and the postal safety record. You are fully cognizant of it. It is about 14. That means there are about 14 injuries for every 1 million man-hours worked in the Postal Service. Industries much, much more dangerous than the Postal Service, have accident frequency rates of three or four or two. So this is the reason why I am offering the amendment.

We, furthermore, Mr. Chairman, would like to amend section 410 (b) (1) of title 39, United States Code, to read as follows:

(b) (1) Section 552 (public information), section 3110 (restrictions on employment of relatives), section 3333 and chapters 71 (employee policies) and 73 (suitability, security, and conduct of employees), except that section 7311 (3) and (4) shall not apply to postal employees, and section 5532 (dual pay) of title

5, except that no regulation issued under such chapters or sections shall apply to the Postal Service unless expressly made applicable.

And once again, to explain that technical legal language where our proposal would give postal employees the right to strike. And in my supplemental statement, I have given you a historical background of the conditions in the public sector of the United States and how in an evolutionary fashion employees in public jurisdictions other than in the Federal jurisdiction—I am talking about State, county, municipal jurisdictions have been given this particular right under certain conditions. Again, as you know, in the past, we have appeared before your committee and other committees suggesting that Congress look hard at this proposal of a limited right to strike.

The next section that we are proposing to amend, of course, is the one which would give us the right to negotiate union security agreements.

Section 1209(c) of title 39, United States Code, shall be amended as follows:

“(e) Each employee of the Postal Service shall have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 158(a)(3) of subchapter II of chapter 7 of title 29 which section shall not be deemed inconsistent with any other provision of this title except as modified by section 1210.”

And I have proposed language here which has been adopted by the Congress recently when they passed legislation covering, for the first time, 1,700,000 employees who work in nonprofit private hospitals and nonprofit private nursing homes. And the Congress handled, I thought, very adequately, this issue of Union Security. It allowed those persons who because of religious tenets and beliefs who do not want to join unions, it gives them an opportunity to not have to pay union dues if their religious beliefs prohibit them from doing that.

And it makes other suitable arrangements, for them to do something in that respect.

And so those three amendments, we lay before your committee for consideration.

[The amendment follows:]

An amendment to Title 39, United States Code which adopts the following additional section as section 1210:

“Any postal employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment, except that such employee may be required, in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, designated by the labor organization, or if the labor organization fails and refuses to designate such a fund, the employee shall comply with alternative arrangements mutually agreed upon by such employee and such labor organization.”

Mr. Chairman, you must remember along with: (1) getting the Postal Service out of politics, (2) providing the Postal Service with a means of getting capital funds, and (3) establishing a fair and equitable rate-making structure for all users of mail, the fourth major purpose of the postal Reorganization Act and the one most instru-

mental in getting the legislation enacted was a modern labor relations system with real collective bargaining.

In the 4 years since enactment of the legislation, none of the four major purposes of the Postal Reorganization Act have been fully realized. And it is for this reason our union supports your H.R. 15511 with the exception of the private expressed, statutes, provisions. And this is why we ask you to consider these additional recommendations that we are making.

Substantial improvements in employment conditions are required in the U.S. Postal Service. A major effort must be undertaken to improve the quality of life within the postal work place and to eliminate the dull, monotonous, and repetitive nature of postal employment. Moving the mail is a vital function in our Nation; and postal workers should not be made to feel as if they are machines or, at best, industrial prisoners. Backward management practices in the discipline area must be eliminated and noise, dust, and other health and safety hazards must be promptly eliminated as well. In short, there must be a radical transformation of the work environment of postal workers.

A monumental improvement in contract enforcement must be accomplished, and that is the prime purpose of the three amendments which we offer. It is not enough to have rights on paper that are not lived up to by management. Unless the unions have an opportunity to enforce their agreements effectively within the postal facilities, the agreements will become mockeries.

Those provisions for the right to strike, the provisions for union security and the provisions that would allow a postal employee to withhold his labor when he is confronted with some of the disgraceful safety conditions in the Postal Service is the kind of—and I put it bluntly—power that postal workers and their unions need in order to have equity with postal management. Who, now, run the Postal Service, as it has been said here by some of the previous speakers, without benefit of any reigens from any source?

A recent study has been made by the Congress which specifically details the failure of the U.S. Postal Service to provide the continuity of management which was supposed to have been established as a result of the enactment of the Postal Reorganization Act. This failure to provide continuity of management is responsible for the poor performance to date of the U.S. Postal Service. I hope this fact stops the U.S. Postal Service's convenient excuse that because the Postal Service is a labor intensive industry, it prevents the U.S. Postal Service from coming to grips with its service problems. This is nonsense and the report exposes the real culprit—failure to provide continuity of management.

The U.S. Postal Service cannot blame postal workers for deterioration in service. I happened to be in Seattle, if I go off this statement for a minute, Mr. Chairman, last week for several arbitration hearings. And Seattle happened to be the locale at that particular time last week where the National Association of Postmasters were having their convention. It was quite interesting, and that is why I have gone off my statement because I say here the U.S. Postal Service cannot blame postal workers for deterioration in the service. A Senior Assistant Postmaster General appeared at that convention, and he made quite an ado, quite a talk, about productivity and about an alcoholic problem in the postal service.

Now, these are my words, these aren't his—what I am going to say next. It was perfectly obvious to me, what came through some of the nice words, was an indictment of postal workers that they are nothing but drunks and goldbricks. You have a labor intensive industry, and you have got to understand the dimensions of that labor intensive industry and the transfer or transition of that labor intensive industry to a capital intensive industry is going to take some sensitivity on the part of management. And these kinds of things aren't going to help the situation.

Back on my statement, postal unions should be consulted on all phases of management decisionmaking, even outside the area of collective bargaining.

And, again, off my statement, Mr. Chairman, postal workers know as much as postal management about the needs of postal users and postal patrons. And I don't see why it is so difficult nor do I see why it should be considered as revolutionary the concept of what I call codetermination of policies and concepts and systems and procedures. Why is it so revolutionary a concept that postal workers and postal management should codetermine what the Postal Service needs in order to provide an efficient and reliable Postal Service. I don't think that is revolutionary at all.

I think, this was the intent of the Postal Reorganization Act and has been ignored by the U.S. Postal Service. That act, as you know, was the first major piece of legislation since the Railway Act of 1926 whereby three parts were granted, you might say, commissioned by Congress to develop legislation, present it back to Congress, and have it adopted. And that kind of cooperation that existed at that particular time, I don't know why it had to be summarily chopped off as soon as the act was passed. And we went through all of this business of creating these adversary situations.

When they put the gag rule in, postal management became an adversary of the Congress. They tried to make postal workers adversaries of the Congress. When they got the Postal Reorganization Act, and we didn't get the right to strike, when they sat down at the bargaining table, they could give us a "take it or leave it" attitude. And that created an adversary situation which wasn't the intent of the legislation. All of these controversies have been thrust forth from top management decisions—I am talking now about the era of Postmaster General Blount; it is true in some respects during this era of Postmaster General Klassen—that kind of adversary thing has been corrected slightly. But it hasn't been eliminated. And in my opinion, it should be totally and completely eliminated.

There is no need for secrecy about the running of the Postal Service in any aspect of its operation or its fiscal administration or its capital investment. Unions and postal management were to form a partnership. This arrangement is needed if the Postal Service which is the major Government enterprise in this country is to continue to work. If this is not accomplished, the purposes set forth in the Postal Reorganization Act are bound to fail.

All we have got to do is look at the 4-year record. Back on my statement—there are many who would like to see it fail just as the same elements would like to dismantle the TVA. Indeed, private enterprise who are financing policies in this country are delighted that the United

Parcel Service has taken over much of the Postal Service business as they would like to turn the whole Postal Service over to private enterprise. That is why we are so strong against any amendments to the postal monopoly, the private express statutes. This cannot be permitted to happen. Postal workers are committed to protecting the public interests.

Postal management should, therefore, agree that postal unions and postal workers should have a larger say in managerial decisionmaking. This is a system of "codetermination" and not merely cooperation or consultation, as is spelled out in the legislative history of the Postal Reorganization Act.

After all, the record of these past 4 years is clear. Postal workers have a far better idea of the needs of postal patrons than does postal management. Through the years, postal workers and postal unions have provided postal service to patrons despite the comings and goings of new postal management.

This concludes my primary statement, Mr. Chairman. And, as I said earlier, which you gave your consent, I submit for the record a supplemental statement of background legislation in the public sector, State, county, and municipal jurisdictions dealing with the right to organize, the right to recognition, right to certification, right to a labor agreement, right to union security, and right to strike.

Thank you, Mr. Chairman.

Mr. HANLEY. Thank you very much, Mr. La Penta. And as I indicated before, the entire text of your supplemental testimony will be contained in the minutes of this hearing.

Your testimony was excellent. You covered a number of points. We are grateful for the endorsement of the legislation that I introduced with that one exception that you mentioned related to the monopoly and the private express statute. And to clarify that point, there is no intent at all that the traditional interpretation be changed. The purpose of that is to clarify and make certain that there will be no changes. So, if you will report to your people that we recognize the absolute essentiality of the U.S. Postal Service enjoying that monopoly if the institution is going to work. And the committee would fight off any effort that might substantially, or for that matter, in any degree change that.

And the purpose of that language in the bill is to make clear that the interpretation in regard to newspapers and telegrams and cargo that has prevailed traditionally will continue to prevail. That is the sum and substance of it.

Mr. LA PENTA. I am glad to hear that, Mr. Chairman.

Mr. HANLEY. The amendments that you have related to certainly will be taken under consideration by this committee. One relates to the safety factor, and you projected a figure of 14 ratings safety.

Mr. LA PENTA. That is their accident frequency rate. That 14 represents, as I said, there is 14 injuries, lost time injuries, for every 1 million man-hours worked.

Mr. HANLEY. How does this compare with the private sector?

Mr. LA PENTA. With the private sector, it doesn't compare favorably. In fact, it is one of the worst rates both in the private and in the public sector. There are some private sector areas that are as high as the Postal Service, but most of them are lower. In the Federal Government area, no one comes anywhere near the terrible Postal Service record.

I think the closest is the Navy, and it is something like either 4½ or 5. Most of the Federal Government agencies are down below 1.

Mr. HANLEY. We have related to the Postmaster General on a number of occasions the essentiality of the institution getting into conformance with OSHA; that we impose some very severe penalties on the private sector if they violate any of the provisions of OSHA. So we, as a governmental agency, obviously, should be setting a good example. And in a number of instances, shortcomings in specific facilities are called to our attention. And I am advised that those problems were corrected and that the U.S. Postal Service was moving along progressively with its effort to bring all of its facilities into absolute conformance with the mandate of OSHA.

Mr. LA PENTA. Of course, we have problems all over the country, but one of the first that we brought to their attention were some facilities in your particular area and adjacent to your area.

Let me say this in response to your query. I must candidly and honestly say Postmaster General Klassen has gotten the word. He has given top attention to this problem because of our representations, because of your representations. And he has given it top level attention, but it is not enough. Enough is not being done. We have got to move more rapidly in bringing this down, not only from the standpoint of human suffering, but of the cost of \$120 million I think it cost the Federal Government in the last fiscal year; \$60 million of that was Postal Service; \$60 million is a lot of dough; over a 10-year period that is \$600 million.

Maybe we will recover the bulk mail facility investment when it won't any longer be able to operate. Maybe we will recover that \$1 billion over the next 10-year period if the safety record is improved.

Mr. HANLEY. Well, the committee will certainly give a great deal of attention to this matter. And if it is determined that the agency is not moving positively and quickly in the direction of bringing its facilities into conformance, at the time of the next Congress when the OSHA amendments are under consideration, we can make quite sure in the language of that these same rules apply to all Government facilities that apply to those in the private sector.

Quite unfairly, we impose penalties and extract certain criteria from the private sector that we do not do ourselves. So we will certainly ride herd on that.

Now, with regard to the gag rule—I think that you referred to it—from your observation, are employees still reluctant to communicate with Members of Congress?

Mr. LA PENTA. Yes, I think there is still a spillover from that, although, as I say, I think Postmaster General Klassen has taken the bite out of that, so to speak, that formerly existed there.

But yes, to answer your question directly, I think there is still a residual of that.

Mr. HANLEY. Do you want to specifically comment on the morale of postal employees since the advent of the Reorganization Act; that is, previous to it?

Mr. LA PENTA. Yes, I think the postal workers' morale is still, insofar as their working conditions and insofar as their getting quick and swift justice under contract enforcement and contract administration, is still poor. And therefore, postal morale is still poor. These are noneconomic things.

In the economic area, there have been improvements that have adjusted some of the problems that we were having with morale. And with the economic package that we negotiated in the last agreement, they have gotten some protections there, although not enough because even though with fine cost-of-living formula, that only represents about one-half of what the rise is in the cost of living.

But there are a number of working situations and a number of contract enforcement situations which are contributing to keeping employee morale low.

Now, there was a program, as you know—I forget how many hundreds of millions were appropriated or budgeted for cleaning up post offices and remodeling these old buildings while the new buildings were being built et cetera. That program, like the other things I have mentioned, has been initiated. And it is moving along much too slowly. And employee morale will be low as they have to continue to work in rather lousy workplaces.

Mr. HANLEY. Could you mention specifically some of the facilities?

Mr. LA PENTA. I think you can go pretty much into any old facility and find high levels of noise, dust, dirt.

Mr. HANLEY. Any facilities that are particularly bad, can you, off of the top, tell us about?

Mr. LA PENTA. No, I can't give you if you are talking about specifically. I am saying I think you don't have to have specifics in that you have X, Y, and Z. I think it is just the question those older facilities still have the conditions we have talked about before. We've come up here before, and we all get that, give us a laundry list of the postal facilities. I guess we can always go out and come back with a laundry list. We did it before, and if you want us to do it again, we will do it again.

Mr. HANLEY. We would like to be made aware if there are very specific instances where real shortcomings prevail. We would like very much to know about them because it is a little hard for us to make our point if we have to deal in a general sense. As you can imagine, if we have it on the table, then we are in a position to question.

So if there are facilities where conditions exist that are not being attended to, we would like very much to hear about it.

Mr. LA PENTA. Most of the mechanized facilities, insofar as the noise level is concerned, I will tell you that right now is above the 85 decibels that they say is safe.

Mr. HANLEY. Would this prevail, for instance—

Mr. LA PENTA. This is universal, I would think, in the Postal Service, that particular problem.

The problem of dust and dirt and crowded offices prevails primarily in the older offices. The problem of noise has not been improved.

Mr. HANLEY. Have you had the occasion to spend some time in the Secaucus facilities?

Mr. LA PENTA. Yes, I have been around Secaucus, and I have been to a couple of the other bulk mail centers that were under construction. In fact, when I went to Springfield, they wouldn't let me in the facility.

Mr. HANLEY. Why?

Mr. LA PENTA. I can't answer that. You will have to ask them.

Mr. HANLEY. Who wouldn't let you in?

Mr. LA PENTA. Postal management.

Mr. HANLEY. Well, with that, Mr. La Penta, on behalf of the committee, our appreciation for your appearance and your interest and

your excellent testimony. Certainly, you are assisting the efforts of this committee very much. Hopefully, working together, we can eventually, and the sooner the better, evolve from the current dilemma.

Mr. LA PENTA. I hope so.

Mr. HANLEY. Thank you very much.

Mr. LA PENTA. Thank you, Mr. Chairman.

Mr. HANLEY. With that, we conclude this hearing. The next hearing will take place on Wednesday, September 25, at 9:30 a.m.

[Whereupon, at 11:30 a.m., the hearing recessed, to reconvene on Wednesday, September 25, 1974, at 9:30 a.m.]

[The prepared statement submitted by Mr. La Penta follows:]

PREPARED STATEMENT OF JAMES J. LA PENTA, JR.

Mr. Chairman and members of the committee, the suggestion that strikes are a legitimate method of bargaining in the public sector continues to cause many students and public officials to raise their eyebrows and, in most cases, to express a complete rejection of this concept. In order to more fully appreciate why strikes are a legitimate objective, it is necessary to review what has happened to collective bargaining in the public sector during the past 30 years.

The changes that have occurred are primarily the result of a change in the atmosphere in the private sector that came about when the National Labor Relations Act (NLRA)¹ was passed 39 years ago establishing the basic rights of employees in the private sector to organize into unions and to be certified as the exclusive bargaining representatives when a majority of the employees in appropriate units want such representation. The NLRA provided machinery for protecting the rights of employees through unfair employer practices which would be enforced by the National Labor Relations Board. The NLRA also recognized the right to strike as a legitimate tool in the collective bargaining process. The use of the strike in the private sector has never been a single-edged sword since the cost of work stoppages falls on the employee, except in those cases where the strike might be the result of an unfair employer practice.

The attitude about unions in the public sector is pretty well described in court decisions within the first few years following the enactment of the NLRA.

One of the landmark cases of this era involved the membership of some 22,000 postal clerks of the U.S. Railway Mail Service.² The issue was whether the postal clerks' organization was, in fact, a labor organization within the meaning of the New York Civil Rights Law which prohibited organizations to deny a person membership by reason of race, color, or creed. In finding that the Association was a fraternal insurance society, the court concluded that the Association could not be a labor organization because such organizations could not exist in the public sector. The court said in part:

"To tolerate or recognize any combination of civil service employees in the government as a labor organization or union is not only incompatible with the spirit of democracy, but inconsistent with every principle upon which our government was founded. To admit as true that government employees have the power to halt or check the functions of government, unless their demands are satisfied, is to transfer to them all legislative, executive, and judicial power. Nothing would be more ridiculous. Much as we are recognize the value and necessity of collective bargaining in industrial and social life, nonetheless, such bargaining is impossible between the government and its employees, by reason of the very nature of government itself. The formidable and familiar weapon in industrial strife and warfare—the strike—is without justification when used against the government. When so used, it is rebellion against constituted authority.

The tone and thinking in the *Railway Mail Association v. Murphy* case was carried over by a number of courts in decisions involving interpretation of constitutional rights to bargain collectively and in the application of these constitutional rights to state and local government employees. The principal de-

¹ National Labor Relations Act, as amended, 29 U.S.C. 151, et seq.

² *Railway Mail Ass'n v. Murphy*, 44 NYC 2d 601; reversed. *Railway Mail Ass'n v. Corst*, 47 NYC 2d 404, affirmed 326 U.S. 88 (1945).

cisions in this area were the *Miami Waterworks Local 654 v. The City of Miami*³ and *Springfield v. Clouse*.⁴

The basic concepts for a responsible system of labor-management relations were all rejected as illegal by the early public service court decisions. These include a declaration of policy on the right to organize; a system for granting recognition to a majority organization; a granting of exclusive bargaining rights to a certified labor organization; the responsibility of the exclusive representative to enter into collective bargaining agreements with the employer; the right to negotiate union security, including the checkoff of dues; a negotiated grievance procedure with final and binding arbitration; and the right to strike on collective bargaining issues.

Simple issues, such as recognition, became major stumbling blocks, even though a union might have been one hundred percent organized in a given division or department in the public sector. Most public officials resorted to the excuse that the request was illegal or there was no statutory authority supporting recognition, exclusive bargaining, written agreements, etc. Over the past 30 years, the general atmosphere has changed so that there is no question about the legal right of public employees to belong to a union.

The public employee's right to belong to a union has been declared by two federal courts as a constitutionally protected right.⁵ In the absence of law, many officials still reject the concept of exclusive bargaining and many still object to collective bargaining. Most public employers continue to oppose any union security. Grievance processes are acceptable, but arbitration as a final step is still a major obstacle.

The laws that have been adopted in the various states for public employee recognition and bargaining have followed the basic concepts of the NLR. Some have included new concepts of recognition, such as the Kansas Law of 1971⁶ which has formal recognition and completely ignores the exclusive recognition which is the distinguishing feature of bargaining relations as developed in the private sector. Most of the public employee collective bargaining laws have incorporated exclusive bargaining as the basis upon which employee organizations would be recognized and negotiate with public agencies. These laws also provide for written agreements, whether in the form of collective bargaining contracts, memorandums of understanding, or other unique names to define these types of bilateral documents. The relationship of equal parties at the negotiating table is the cornerstone of any public employee collective bargaining law.

Within the last few years, the concepts of union shop and/or agency shop have been adopted in several state laws and have been employed in some states even in the absence of specific authority. For many years, the idea of resolving disputes in the grievance process through final and binding arbitration was totally unacceptable. This was primarily based on a legal theory that a public official could not delegate to a third party arbitrator the authority to make decisions which would bind him in his relationship with employees.

The federal government, with Executive Order 10988, approached the question of arbitration by giving recognized employee organizations the right to negotiate "advisory" arbitration as a final step in the grievance process. Unions refused to even use advisory arbitration during the early years. Only after it was conceded that the agency head who made the original decision would not also have the right to accept or reject the advisory award did the unions agree to use this procedure. The latest amendment incorporated in Executive Order 11491 accepts final and binding arbitration as it is practiced in the private sector.

It is obvious that there has been a complete swing in many areas of the public sector away from the approach suggested by the court in the *Railway Mail Association v. Murphy* case of 1943 to the general pattern established in the NLR. Legal obstacles are no longer raised to questions of recognition, to granting exclusive bargaining, to establishing written agreements, to granting check-off, and to negotiating grievance procedures.

The only area that continues to plague public officials, attorney generals, and even the courts, is the question of strikes. There have been a number of state laws granting the right to strike and even court decisions that suggest the legal obstacles on the right to strike in the public sector are no longer as real as they were a few years ago.

³ *Miami Waterworks Local 654 v. The City of Miami*, 157 Fla. 445, 26 S.O. 2d 194, 163 ALR 967 (1946).

⁴ *Springfield v. Clouse*, 356 Mo. 1239, 206 S.W. 2d 539 (1947).

⁵ *AFSCME v. Woodward*, 406 F. 2d 137 (8th Cir. 1969). *Atkins v. City of Charlotte*, 296 F. Supp. 1068 (W.D.N.C. 1968).

⁶ Kansas Public Employee Relations Act, S.B. 333, L (1971), amended by S.B. 509, L (1972).

The public sector has made a full swing from the views of 1943 to the views and practices existing in 1974.

HOW THE PUBLIC SECTOR NO-STRIKE CONCEPT DEVELOPED

Within a very short period following World War II, the United States Congress, as well as many of the state legislatures, reacted to the militant efforts of organized workers to reestablish an economic balance due to the federal controls experienced over wages and prices. The resulting strikes produced a political reaction for anti-union legislation. The Congress felt that the balance of power had swung too heavily in favor of organized labor so attempted by the provisions of the Taft-Hartley Law of 1947 to reestablish a balance and did just that through numerous restrictions on unions.⁷

At the time the United States Congress was considering the Taft-Hartley provisions, the various state legislatures throughout the country were accepting the challenge of legislation which might dampen the spirits of organized labor under the state jurisdiction. The state legislative bodies soon determined that the United States Congress by its enactment of the Federal Labor-Management Relations Act had usurped all of the authority which states had traditionally exercised. The one remaining area left for the state legislature was the field of state and local government services. Following World War II, there had been in some states, teacher strikes, garbage collector strikes, and threats of strikes even by police and fire. The legislative bodies in eight states passed laws prohibiting public employees from striking against the state or its political subdivisions.⁸

Most of the state laws included strong penalty provisions for violations. The Michigan law did include some provisions for resolving disputes in the public service. All other state laws were merely designed to penalize and offer no solutions to disputes that might result in work stoppages or any other type of interruption of the public service. Unions have always considered the Taft-Hartley Act as being a strictly anti-union orientated act, but most of them are not aware or even concerned about the fact that in 1947, when employee organizations in the federal service were struggling insurance clubs or social societies, that the Congress saw fit to enact a provision in the Taft-Hartley law, even though all the other rights and benefits of the law did not apply to the federal or state or local government employees, which made it unlawful for any individual employed by the United States or any agency thereof to participate in any strike.⁹ The penalty imposed by this law required that violators would be discharged immediately from their employment, and would forfeit their Civil Service status, if any, and would not be eligible for reemployment for three years by the United States or any such agency.

The mere outlawing of strikes is not the answer. The penalty provisions of most strike laws have made it impossible to use the enforcement provisions or have made it impossible for the employees to return to work under the conditions imposed by the law. Secretary of Labor Willard Wirtz in commenting about the Condon-Wadlin Act¹⁰ of New York State said:

"The Condon-Wadlin Act is a glaring illustration of the unfairness, the absurdity, and the ineffectiveness of outlawing the strike without any provision whatsoever for alternative procedures settling the honest and legitimate issues which might cause a strike."

The various state public employee relations laws adopted, beginning in 1950 with the State of Wisconsin, accepted the common law concept that strikes were illegal in the public sector. The Wisconsin law merely stated that strikes were against the public policy of the state, but outlined no penalties for employees or unions engaged in strikes.

New York State, through its Taylor Act,¹¹ modified the restrictive provisions in its Condon-Wadlin Act by continually outlawing strikes, but changing the procedures by which penalties would be imposed. Under the New York Taylor Act, unions and union officials could be found in violation and heavy fines imposed, as well as prison sentences.

⁷ Labor-Management Relations Act of 1947, as amended by Public Law 86-257, (1959).

⁸ Michigan, Virginia, New York, Ohio, Pennsylvania, Texas, Missouri and Nebraska had general no-strike laws. Missouri and Nebraska laws have been repealed.

⁹ Section 305 Labor-Management Relations Act 1947, as amended by Public Law 86-257 (1959).

¹⁰ Condon-Wadlin Act, S. 108 Civil Service Law, amended by Chap. 391 L. (1947).

¹¹ New York State Taylor Act, Ch. 392, (1962).

The State of Michigan, in adopting a comprehensive public employee relations act, continued to outlaw strikes, but provided machinery for resolving collective bargaining or impasse disputes through mediation and fact finding.

The Wisconsin legislature recently adopted an amendment to its public employee bargaining law which permits recognized unions and employers to negotiate "a fair share" provision (agency shop). In order to obtain the necessary political votes for the fair share concept, the lobbyists and the unions agreed to an amendment to the no-strike section which would impose penalties of \$10 a day against each employee found to be in violation when an Injunction had been issued. Since the passage of the Wisconsin amendment, there has been no effort to impose or collect the \$10 fine, although a number of strikes have occurred.

The most significant developments have occurred in the States of Pennsylvania, Hawaii, and Vermont where the legislatures adopted public employee bargaining laws which authorize public employees to engage in strikes under certain conditions. These three states have recognized the fact that the outlawing of strikes has not been successful. These states accept the fact that if collective bargaining is to mean anything, the parties must have equal power in the bargaining process and that the dice cannot be loaded in favor of the public employer.

RESTRICTIONS ON THE RIGHT TO STRIKE ARE INEFFECTIVE

The federal government which has prided itself as a model employer is one that has had strong prohibitions against the use of strikes. Two major shutdowns have forced the government to concede that laws prohibiting strikes do not prevent them. The federal law, 5 U.S.C.A. 7311 provides:

"An individual may not accept or hold a position in the Government of the United States or the Government of the District of Columbia if he—(3) participates in a strike or asserts the right to strike against the Government of the United States or the government of the District of Columbia; or (4) is a member of an organization of employees of the Government of the United States . . . that he knows asserts the right to strike against the Government of the United States."

The United States Court of Appeals in the *NALC v. Blount* case¹² held that the oath requiring federal employees to assert that they would not strike violated the First Amendment of the United States Constitution. The court also held that public and private employees had no constitutional right to strike.

When the postal strike occurred in March of 1970, President Nixon instructed the Postmaster General to enter into immediate negotiations with the postal unions. The President played the role of a cool employer when he issued orders for the Army to take over the function of distribution of the mail and at the same time offered of the postal employees negotiations with no reprisals for their "unlawful" actions.

In spite of the fact that the federal government considers it a felony to strike against the government and subjects the offender to a possible year and one day in jail and a \$1,000 fine, neither of these weapons were used against the striking employees.

The result of the strike was meaningful collective bargaining on wages: a subject that was not considered negotiable under Executive Orders 10983 or 11491. The Postal Reorganization Act¹³ was passed to resolve the striking issues resulting in pay increases and a Congressional Act putting postal workers under the provisions of the NLRA.

The experience of the Air Traffic Controllers in conducting a strike was not quite as effective as the strike against the Post Office Department. The principal reason was because of the apparent lack of organization among air traffic controllers and the militant position taken by the federal government to break the strike. Efforts were made following the strike to destroy the union and to penalize individual employees for the violation of the no-strike law.

There is no question that federal agencies are now better prepared legally and organizationally to take a strike whether it is at the national level or in a local activity. Most federal agencies, including the Postal Service, have drafted strike organization plans so that the activity may continue to function on a limited basis by the use of supervisors and other managerial-type employees.

The *Federal Times* for March 14, 1973, reports that the Army at Ft. Belvoir, Virginia, is ready for a strike. The official document is not for general distribution, but offers suggestions on the way management could handle a work slowdown

¹² *NALC v. Blount*, 305 F. Supp. 546 (1969).

¹³ Postal Reorganization Act, Public Law 91-375, (1970).

or work stoppage. Warnings are offered to those who refuse to cross over picket lines under "protective escort." Union officials will be questioned by management and their conversations will be recorded as well as a chronology of events. Detailed records of events that occur, conversations with labor officials and employees who participated in the work stoppage are to be made a part of the record for future actions. Supervisors will immediately suspend individual employees and management is instructed that it is "taboo" to negotiate with union officials for the purpose of ending the strike.

The State of Ohio, through its Ferguson Act,¹⁴ has one of the most restrictive no-strike laws of any of the 50 states. The law is similar to the former New York 1947 Condon-Wadlin Act prohibiting strikes, discharging employees who engaged in strikes, and, if they are reinstated, returning them to work without any increase in pay and probationary employ for a period of years. The strict limitations on the right to strike have not reduced the number of strikes. As a matter of fact, in the state and municipal services in Ohio there are as many, if not more, public employee strikes than in any other state in the country. At no time have the penalties of the Ferguson Act been applied against any striking employee. Probably the major reason for strikes in Ohio is that of establishing the right to be recognized and the right to enter into bargaining relations with the public bodies. The Ferguson Act does not address itself to these issues.

The Laborers' International Union, as a representative of employees in the City of Cleveland, Ohio, has in fact been invited by politicians to strike in order to make a case with the taxpayers for the necessity of increasing the municipal tax rate. In these situations, the subterfuge of the "sick-in" and "blue-flue" was used to avoid any suggestion that the employees were actively engaged in a strike violation of the Ferguson Act.

THE TECHNIQUES USED BY EMPLOYERS TO STOP STRIKES ARE INEFFECTIVE

For many years strikes, whether in the public or private sector, were considered a part of an illegal conspiracy and, therefore, subject to injunctive restraints. With the passage of the Norris LaGuardia Act,¹⁵ the use of injunctions through the federal courts to prevent strikes was outlawed. The Norris LaGuardia Act only applied to employees in the private sector. In the past few years there have been a few cases where state anti-injunction laws have been interpreted to prohibit the issuance of injunctions in public employee strikes.

Public employees who resort to strikes to achieve recognition or economic benefits soon find that the common law concept prohibiting strikes in the public sector is the basis upon which restraining orders and injunctions are issued without hearings.

Some unions have attempted to reverse the effect of injunctions and the usual contempt orders which follow injunctions by making labor martyrs out of officers and members. The "Eugene Debs" of the 1970's is the president of the Teachers' Union who is found in contempt of court and gladly serves a 60-day jail sentence to dramatize the cause of several thousand teachers who want fair treatment from the school board. The labor heroes in the public sector are leaders who are fighting for basic right established by the NLRA for private sector employees 39 years ago. Public employers' major weapon after injunctions are issued is threatening striking employees with jail sentences and defiance of restraining orders against strikes.

Recently, the general counsel for a great mid-western university, which was refusing to grant employees of the university the rights provided by law, threatened to fill up all the jails in surrounding counties, if necessary, unless employees returned to work and dropped their demands.

It is apparent that the imposition of penalties, such as provided in the Wisconsin law or the severe penalties in the Ferguson Act of Ohio, do not prevent strikes and surely do not settle strikes.

Public employees and their unions generally have no relief in impasse situations other than withholding services. The public employer admittedly has no-profit motive, but in most situations, the public employer is not hurt economically and welcome a strike because it cuts down on the operating costs for the period employees are off the payroll.

In spite of the number of states adopting no-strike policies, some with severe restrictions and penalty provisions, the number of strikes in the public sector

¹⁴ Ferguson Act, Ohio Revised Code Sections 717.03, 4117.01-4117.05 (P. 1954).

¹⁵ Norris LaGuardia Act, 47 Stat. 70 U.S.C. 29, Sections 101-115 (1932).

has increased in the last ten years to the point that public sector strikes are the area of major disruption in the work force. The solution to the issue is not penalties, but providing machinery for resolving impasse issues short of strikes.

GOOD FAITH BARGAINING IS THE ANSWER TO NO STRIKES

There is no question that collective bargaining, whether it is defined as collective negotiations, "meet and confer," or any other term, is the way of life for labor-management relations in the public sector.

Professor Archibald Cox, Harvard University, has suggested that the right to strike is the "... motive power which makes collective bargaining work." If collective bargaining is to replace collective "begging," or social clubs engaged in lobbying with Congress or the state legislatures, then we must develop the concepts essential to collective bargaining; namely, the right to strike.

Hawaii, facing the question of the right to strike in adopting the Public Bargaining Act in the spring of 1970,¹⁶ conceded that recognized unions would have the right to strike, but that this right would be limited to the unions' exhausting mediation and fact finding through the Public Employee Relations Board. The Act specifically spells out certain "cooling off" periods, but upon exhaustion of the procedures set forth in the Act, the employees would have the right to conduct a legal strike. The Labor Board could determine whether the disruption would endanger the public health or safety and, if so, might issue an order to protect the public in this respect.

It is the position of our Union that reasonable limitations on the right to strike, especially as they provide for machinery of mediation, fact finding, and arbitration should be made available when the right to strike is granted. Our complaint is that most of the no-strike legislation is completely void of any constructive solution, short of punitive action by court orders, to completely destroy the union or to make bargaining ineffective.

THE MAIL HANDLERS DIVISION SUPPORTS H.R. 1282 and H.R. 5312

Our Union vigorously supports H.R. 1282 and H.R. 5312.

First and foremost, we remain firmly committed to the necessity that Congress recognize that postal workers are entitled to enjoy "the right to strike." It did so informally in its resolution of the postal strike of 1970, and the time has finally come when it should take formal action to do so. For, just as in the case of railroad workers, truck drivers, and public employees in several states, we believe that the right to strike is an essential ingredient in making American industrial democracy work.

For the fact of the matter is that the absence of the right to strike is one reason why the unions continue to seek redress in Congress for some of the ills of the Postal Service.

Let me add that another reason, which has not been sufficiently explored, is that the Postal Service has failed to play by the normal collective bargaining rules and has sought to undermine our collective bargaining relationship by imposing a flat ban on hiring in the Postal Service.

This ban has caused a multitude of contractual violations in the areas of manning, leave, compulsory, and excessive overtime. These violations are presently being tried before an arbitrator and, therefore, I will not elaborate before this Subcommittee except to say that the hiring freeze is the type of violation that even the most sophisticated labor relations arbitration system would have difficulty in remedying. Rather, it tends to be an irremediable wrong which has done extraordinary damage to employee morale, productivity, and efficiency.

There are some other areas that deserve statutory considerations:

For one thing, under Section 1207a) and b) of the Postal Reorganization Act, if the parties fail to reach agreement by the termination of their present contract, the unions are forced to work without a contract until there is a settlement at the bargaining table or arbitration is completed. This means that the dispute settlement machinery of the statute is incapable of guaranteeing that a new contractual settlement will have been arrived at or arbitration completed

¹⁶ Hawaii Public Employees Collective Bargaining Act, GERR No. 349, E-1, (May 18, 1970).

by the time the existing contract expires. You will recall that it was working without a contract under Executive Order 11491, that had much to do with the occurrence of the 1970 postal strike. If the statutory timetable could be revised, a long step forward toward stabilizing labor relations in the Postal Service would be accomplished.

Another vital area where an amendment is required is with regard to union security. Congress has thrust upon the incumbent postal unions a vast responsibility for protecting the rights of more than 600,000 postal employees, yet it has not given them the wherewithal to advance and protect those rights. As this Subcommittee knows, the unions are under a statutory duty to represent employees within their bargaining units fairly, honestly, in good faith and without hostile discrimination. It is costly for them to perform these duties, and under the present structure, the financial burden of meeting these obligations is met on a voluntary basis by those employees who see fit to contribute to the unions' resources. Therefore, a statutory provision is at least required which would impose the equivalent of an assessment upon all postal employees who are within the bargaining units, to be used by the incumbent unions to protect the overall interests of the employees they represent. This would not require union membership but only financial support to the union. It is unfair to permit the present situation to continue with "free riders" who receive the benefits of traveling on the union train without having to pay any fare.

Finally, we want to make a recommendation which, if adopted, would amend the Postal Reorganization Act. In the preparing of the Postal Reorganization Act, the draftsmen failed to include a critical provision of the National Labor Relations Act, as amended. This portion of Section 502 provides that :

"The quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions of work at the place of employment of such employee or employees [shall not] be deemed a strike under this Act."

The intent of this provision is clear on its face. It seeks to protect workers from the claim that their refusal to perform hazardous work constitutes a strike. This provision has been law in the private sector for more than 25 years, and has been an effective protection against unsafe and hazardous working conditions. Its application to postal workers seems to me to be critical in light of what is acknowledged to be an extraordinarily poor safety record on the part of the Postal Service and the fact that it is not uncommon for postal management to tell postal workers that they *must* perform ultra-hazardous work subject to their right to grieve later, which obviously may be too late!



PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

WEDNESDAY, SEPTEMBER 25, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 210, Cannon House Office Building, Hon. James M. Hanley (chairman of the committee) presiding.

Mr. HANLEY. This morning the committee resumes its hearings on H.R. 15511 and our first witness this morning is the Honorable J. Edward Day, general counsel, Associated Third Class Mail Users.

Mr. Day, it's a pleasure to have you with us this morning and with recognition of your outstanding background on this subject matter I am confident that your testimony this morning will prove most interesting and certainly most helpful to the deliberations of this committee.

STATEMENT OF J. EDWARD DAY, GENERAL COUNSEL, ASSOCIATED THIRD CLASS MAIL USERS

Mr. DAY. Thank you, Mr. Chairman.

My name is J. Edward Day. I am a partner in the law firm of Cox, Langford & Brown, 21 Dupont Circle NW., Washington, D.C. 20036. Our firm represents Associated Third Class Mail Users, a trade association of about 600 users, large and small, of bulk third-class mail both regular rate and nonprofit rate. I am appearing as general counsel of that organization.

We favor most of the provisions of H.R. 15511. We have some important amendments and additions to suggest, and I will discuss some of those in detail.

Addressed advertising circulars should be exempted from the postal monopoly

My reason for discussing this subject first is because third-class mail has been hit with rate increases in every year but one since 1967, and we are desperately in need of getting out from under the Postal Service monopoly.

Just to show how arbitrary the Postal Service is in applying the Private Express Statutes to us, they don't look at the contents of an advertising circular to see whether they consider it to be a letter—but they look at how it is addressed. How an address can make something a letter that is not otherwise a letter I cannot fathom.

Section 7 of H.R. 15511 provides for various exemptions from the postal monopoly but leaves our form of advertising mail, bulk third class, subject to the monopoly and captives of the Postal Service and its skyrocketing rates.

We in ATCMU prefer to love everybody as far as other mail user groups are concerned. As a matter of fact, our ATCMU proposal to the Postal Rate Commission is to reduce by 50 percent the permanent rate increases for all classes of mail.

We aren't criticizing or challenging any other class of mail. But we are deeply and urgently concerned about the continuing and accelerating discrimination against third-class mail. This is particularly difficult for us to understand in view of the fact top management of the Postal Service has said recently: "Direct mail advertising is a profitable business for the Postal Service," and that third-class mail helps to keep the rates for first-class mail from going even higher.

But by an act of blatant discrimination the Office of Management and Budget brought about a denial of phasing for third class. This has already cost third-class mailers hundreds of millions of dollars in rate increases over what the act intended we should pay. This highhanded action by OMB in discriminating against our type of advertising mail was very comparable to an enemies' list operation. The purported reasons given by OMB for its action were definitely contrary to the facts. But, whatever the reason for this raw deal, other nonpriority classes got phasing and third class didn't.

S. 411 threw a bone to third class—but it was a very small and a very dry bone. It didn't even purport to give us any phasing stretchout as it did for other nonpriority classes. It certainly didn't guarantee that we would ever get any phasing at all for the one full fiscal year that is left in our potential phasing schedule.

There are compelling reasons for third class to be exempted from the Private Express Statutes. The basic justification for the postal monopoly is to protect first-class mail from cream-skimming so that Aunt Minnie's cost for mailing an individual letter won't escalate too rapidly. But Aunt Minnie doesn't mail advertising circulars in bulk.

We can't even deposit our mail in collection boxes. Isn't it rather ridiculous to say an item is a letter but the mailer can't put it in a mailbox?

Bulk third-class mailers are paying a postal rate which is 209.7 percent of attributable cost. We have had rate increases aggregating 520 percent since the early 1950's. So we have a pressing need for alternative means of delivery as an escape from exorbitant Postal Service rates. Since we are not getting rate phasing, this means the rates we pay are still more unreasonable.

Mr. Kappel, the former chairman and chief executive officer of the American Telephone & Telegraph Co., in his capacity as Chairman of the Board of Governors of the Postal Service, advocates that the postal monopoly on carrying of letters should be preserved intact and undisturbed.

But Mr. Kappel should remember that privately owned public utilities, including A.T. & T. from which he came, have never believed that a nationwide or areawide communication or utility system, operated as a business, could serve rural localities of low density population at national or areawide uniform rates. As a result of this hard line position of the utility companies, rural areas got electric and tele-

phone service only through congressional action in establishing the rural electrification system in 1935 and the rural telephone system in 1949 with Federal Government assistance and subsidy.

The Postal Service, with its new overriding emphasis on break-even operations, is allowed to use the Private Express Statutes to hold users of third-class mail captive.

It was one thing to give the Post Office an all-inclusive monopoly in the days when it was operated as a public service Government agency, and another thing to continue such a monopoly when the Post Office has been changed to a business-type organization primarily motivated by a break-even goal.

For many years there were two distant concepts about the postal establishment: (a) the public service concept which put the main emphasis on good service to all users of the mail, wherever located, at reasonable rates, and (b) the break-even concept which put the overriding emphasis on budget balancing even if it meant precipitous rate increases in rapid succession. With the acceptance of the postal corporation legislation in 1970, the self-sufficiency concept triumphed and the Winton Blount break-even obsession became postal policy.

The abandonment of the public service concept has made many aspects of the postal monopoly irrelevant and irrational. As we can see by the newspapers, the administration is insisting that even A.T. & T. should be made to accept competition. There is no reason why the Postal Service shouldn't be treated the same.

The Public Service Subsidy Should Be Increased and Rate Increases Should Be Subject to a Ceiling

We endorse section 1 of the bill which would authorize an annual appropriation to the Postal Service of 20 percent of operating expenses. However, this will only partially solve the problem. Because it is becoming apparent that postal spending is largely out of control. The Postal Service can run up its costs with no restraint imposed upon it by Congress—and then pass on these escalating costs to captive mail users in higher rates.

What is needed, in addition to the higher subsidy, is some type of realistic ceiling, keyed to the general economy, on future rate increases. We suggest limiting all future percentage increases for any class or subclass to the percentage increase in average per capita income since the last rate increase for that class or subclass.

In a speech before the Western Postal Customer Conference on April 18, 1974, the Assistant Postmaster General J. T. Ellington stated:

In essence, the Postal Service holds the position that postal prices should not be allowed to run ahead of the economy any longer. Over the long run, it is critical that postal prices stay constant in relation to the costs of other goods and services. We have been going through a "catch up" period for the past few years, but we are at a point now when we are beginning to be "caught up." The level of employee compensation and benefits, the preponderant portion of our total costs, is, generally speaking, quite competitive to the private sector. Our objective, therefore, is to hold total costs, and thereby our prices, to increases that are no greater than the consumer price index over the long run.

We feel that the percentage increase in average per capita income provides a more realistic ceiling than the consumer price index. But either basis for a ceiling would introduce some overdue discipline

into Postal Service cost escalation. The important thing is to have a ceiling which would force the Service to think twice about launching extravagant schemes—such as the bulk mail system.

A ceiling would not in fact hobble the Postal Service by putting it in a complete financial straitjacket. The Service has authority to ask for further appropriations as they in fact did a few months ago to retrieve money they complained they were deprived of by the Cost of Living Council. The Service has authority to borrow from the Treasury up to half a billion dollars a year for operating expenses. They did this on June 24, 1974. And the Service could and should cut their financial suit to fit the cloth by reducing nonessential expenditures.

In the current Postal Rate Commission rate case ATCMU has been urging the Postal Service to use all of those methods to make it possible to reduce proposed rate increases for every class and subclass of mail.

As an Interim Measure, So-Called Temporary Rates Should Be Made Subject to a 10-Percent Ceiling as Proposed to H.R. 15511

There is every indication that just as soon as the Postal Rate Commission finishes with the current rate case, another general rate increase will be waiting in the wings and will be imposed on a so-called temporary basis. When this next temporary increase comes it should be limited to 1 cent for first class, and proportional increases for other classes and subclasses, as a maximum (and then only if justified by the cost increase figures).

The 10-percent increase ceiling proposed in section 4 of H.R. 15511 would achieve that result. We strongly urge the adoption of this section as partial relief from the many crushing inequities of so-called temporary rates.

The requirement in the bill for doubling the time before temporary rates may be imposed, from 90 to 180 days, is at least a step in the right direction. In our ATCMU testimony before your subcommittee in April of 1973, we went at this problem a different way by urging that the maximum period a given set of temporary rates could be in effect should be 270 days.

We believe the Postal Rate Commission and Administrative Law Judge Wenner are making a sincere effort to speed up the current rate case. But even though 11 months have elapsed since the case was started, it will probably be that long again before the case is all over.

In fact, I can see the possibility of a much longer delay in completing the current rate case. The Commission and some of the intervenors are highly critical of the Postal Service's cost methodology, cost sampling and cost statistics. It is just possible that some intervenor will move to suspend the current rate case until the Postal Service comes up with a different method of cost assignment and more accurate statistics. If such a move were made and were successful, it would hold up the final decision in the current rate case until the fall of 1975 with the so-called temporary rates remaining in effect all that time.

This possibility was discussed when the Postal Rate Commission appeared before this subcommittee on July 10 in a colloquy between Congressman Johnson and Chairman Rhodes as follows:

Mr. JOHNSON. * * * your remedy, rather than your being able to force the Postal Service to improve their cost accounting system and their revenue sys-

fem and so forth, your only remedy right now apparently is to refuse to give them the increase in rates by reason of lack of a case, proper case submitted by the Postal Service justifying the rate. Isn't that your remedy today? You could just deny the rate.

Mr. RHODES. What you say, I think, is true, certainly. There is the other side of that coin, though, and that is we would not decide the case until the data came in and that would have the same effect, you see.

In any event, it seems fairly certain that a completely new cost methodology will be put forward by the Postal Service some time late next year, and it is bound to bring on a whole series of controversies. Therefore, I cannot agree with the statement made when the members of the Commission appeared before you July 10 that the next rate case should not take so long as the first one did and the second one is doing.

I am chairman of the Postal Law Subcommittee of the American Bar Association and am also a fellow of the American Bar Foundation which conducts specialized legal research projects. I am trying to persuade these groups to study what could be done, within due process limits, to speed up the rate proceedings of the Postal Rate Commission so that the word "temporary" as applied to postal rates will no longer carry so much obvious irony.

As soon as feasible, section 3641 authorizing temporary rates should be repealed

My previous comments on the temporary rates are an effort to be responsive to the desire of the committee for reactions to the provisions of H.R. 15511.

However, the vice of temporary rates is much more basic than my previous comments indicate. The chairman, Mr. Hanley, at the July 10 hearing on this bill, got to the heart of the problem by observing that temporary rates make the rate hearings before the Postal Rate Commission "an exercise in futility." This is largely true because the increases rates are already being collected while the elaborate, time-consuming hearings on "permanent" rates are going on. And the precedent of the first rate case indicates that the Commission's ultimate decision will involve only some minor tinkering with details of the temporary rates to which the public has by then become accustomed.

Temporary rates thus bring on an outlandish example of "verdict first and trial later."

The Postal Service will not grant even a 1-day hearing on proposed temporary rates. ATCMU asked for a hearing on temporary rates last fall and was turned down. The Postal Service rationalizes all this gross inequity and denial of due process by saying they have to have temporary rates to avoid a revenue shortfall. But if they admit they can't plan ahead as to their finances so as to avoid such a shortfall, it only confirms that Congress should take back the power to set postal rates.

Moreover, the chances of a really crucial shortfall are very small indeed. The Postal Service can borrow for operating expenses as it did on June 27 this year. And it can come to Congress for added appropriations as it did last winter and as the old Post Office Department did year after year with no great sweat.

The authorization for temporary rates should be repealed.

If this is felt to be too far-reaching a step at this time, Congress should at least require a curtailed legislative type hearing before the

Governors themselves before the level of temporary rates is finally decided on. This would expose the Governors to valuable input from their customers. As it is now, they only hear whatever is given to them in laundered form by their captive staff.

In New York State, for example, before an emergency rate increase may be granted to a public utility, there is first a curtailed hearing before the public service commission. A longer hearing comes later to determine if the emergency increase should be continued.

Mail users received a 2-day legislative-type hearing on temporary postal rate increases before a panel of the Cost of Living Council last winter. It was a meaningful hearing. As a minimum, the Governors should provide the same kind of hearing in the future.

Section 3661 of the Postal Reorganization Act should be amended to give the Postal Rate Commission authority to initiate recommendations on major service changes

We cannot believe that Congress, in creating the Postal Rate Commission, with five Presidential appointees, intended that the Commission should have to (a) accept whatever "revenue requirement" the Postal Service handed to it, and to (b) limit its rate authority to divvying up this amount among the various classes of mail.

We urge that section 3661 be amended to give the Commission a greater role in cost constraint for the Postal Service by giving the Commission authority to initiate recommendations relating to major service changes.

The Postal Service has never yet used section 3661 by submitting to the Commission a request for an advisory opinion on a proposed "change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis." A U.S. district court has recently held that the Postal Service erred in failing to comply with section 3661 in connection with two of its programs. The Commission should be given authority to initiate advisory opinions on such enormously costly programs as the bulk mail system.

Similarly ATCMU strongly endorses the following recommendation made by the Postal Rate Commission before this subcommittee on July 10:

We further recommend legislation to remove any possible question as to whether the Commission has jurisdiction, for ratemaking purposes, to inquire into (1) the total cost and revenue estimates of the Postal Service, (2) the phasing schedules used for certain rates, (3) whether there should be an adjustment in rates due to failure of Congressional appropriations, (4) the quality of postal service, and (5) the honesty, efficiency and economy of postal management.

One of the ways in which this recommendation should be carried out is by amending section 3621 of the act. That section says rates shall be "reasonable and equitable." But then it contains this sentence:

Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service.

Some have interpreted this as leaving the determination of "total estimated costs" entirely to the Postal Service. We urge that this sentence be amended to substitute for "total estimated costs of the Postal Service" the words "reasonable and necessary costs of the Postal Service as determined by the Postal Rate Commission."

If the overriding requirement that the rates be "reasonable and equitable" is to be meaningful, the Commission must be given power to participate in controlling Postal Service spending. We are convinced the Commission has such power now, but section 3621 should be amended as indicated to clear up a smoldering dispute.

The role of the Postal Rate Commission ombudsmen should be reexamined

Another problem that should be considered in connection with the Rate Commission is the role of the ombudsman created by section 3624(a) of the act:

An officer of the Commission who shall be required to represent the interests of the general public.

There are now two ombudsmen, each with a staff, each busy fighting with the Postal Service and with most of the intervenors.

On the crucial cost assignment issue, the two ombudsmen don't even agree with each other which makes some of us wonder just how either one is sure he is representing the "general public."

All of this inevitably adds to the delay in these cases.

Well, that next paragraph is academic as of yesterday. I mentioned that if the pending Consumer Protection Agency Bill passes and becomes law, it will provide another superombudsman on top of the two already on board at the Rate Commission.

The veto authority of the Governors in connection with Postal Rate Commission decisions on classification matters should be retained

Section 3 of H.R. 15511 would make the Postal Rate Commission the last word on rate and classification decisions by eliminating the Governor's right to review and to accept, reject, or modify. This change may be all right as to rates. But as I see some of the half-baked proposals for "reinventing the wheel" which have surfaced in the current classification case, I think it is better to preserve the current role of the Governors in classification cases. Then, if recommended classification changes are too wild and unrealistic, the Governors can veto them. After all, decades of congressional effort in building up a workable classification schedule should not be tossed out wholesale by ivory tower technicians with no postal operating responsibilities.

When the General Counsel of the Postal Service testified here on July 9, he had a number of suggestions for other amendments. I won't attempt to discuss these except for two of those that we oppose.

Mr. Cox wanted to be able to put classification changes into effect on a so-called temporary basis, without waiting for the completion of the current classification hearings. This would just be more "verdict first and trial later." The hearings under Mr. Cox's proposal would be even more of an exercise in futility than the rate hearings since you can't very well put classification changes into effect one day and then take them off later.

All "temporary" authority for classification changes should be taken out of the act.

Similarly, the right to full-fledged hearings on classification changes should be preserved rather than eliminating the hearings and going to informal rulemaking such as Mr. Cox prefers. I'm afraid this is just another example of the Postal Service attitude that mail users are a

both, their views aren't worth much, and the less heard from them the better.

In conclusion, as I say, we support most features of the bill, particularly since its sponsor has offered it more as a launching pad rather than as a final unchangeable proposal.

One may well ask whether any bill can repair the damage which has been done by adoption of the postal corporation concept with its break-even obsession and its pervasive reluctance to accept guidance or suggestions from Congress or anyone else.

Some day a reasonable degree of congressional control and responsibility in postal matters will have to be restored. This shouldn't mean return to the advisor system in postal appointments although one might well conclude that practical experience in party politics is not the worst training for a management position in a public service organization such as the post office should be.

But it may be too soon to try to legislate a return of the old system where reasonable rates and good mail service were the top goals.

In the interim, before the Winton Blount house of cards tumbles down once and for all, the creative spirit evidenced by H.R. 15511 is a step in the right direction.

Thank you for the opportunity to testify.

[Attachments follow:]

DISCRIMINATORY DENIAL OF RATE PHASING FOR THIRD-CLASS MAIL

A major part of the problem of excessive rates for third-class mail arose in 1971 because of basic factual misconceptions by the Office of Management and Budget which were arrived at and announced without a hearing and, so far as we can determine, without discussion with any knowledgeable source.

On March 23, 1971, Mr. Weinberger, then of the Office of Management and Budget, testified at a hearing on the appropriation for the Postal Service that the OMB opposed the revenue foregone appropriation for third-class mail. At that time he stated in regard to third class:

"Not only is it commonly unsolicited; there is substantial evidence that the recipients positively do not want it. We cannot recommend a Government subsidy, an expenditure of the public's funds, to enable the public to receive mail which there is little reason to believe it even wants."

The statements that third-class mail receives a subsidy and the statement that recipients do not want it are both contrary to the facts. Third class has had a 520% rate increase since the early 1950s. The figures used by the Postal Service in the first rate case showed that after the rate increase then put into effect, third class paid a higher percentage of its attributable costs than any other important class of mail—higher than first class. The percentage figure was 207%. This situation was recognized even by the current Administration back in 1970 when legislation was submitted in April, before postal reorganization, for a general pattern of postal rate increases. This proposal called for only a 5% increase in the rate for third class—rather than the 28% increase to which the proposal was later changed. The 5% increase proposal was based upon the same revised revenue and cost analysis and new cost methodology upon which the Postal Service based its recommendations to the Postal Rate Commission in the first rate case.

In connection with Mr. Weinberger's statement that recipients do not want third-class mail, the Postal Service has recently released a study which shows that most people receive very little third-class mail, that only seven households out of over 2,000 covered in the survey received as many as 20 pieces of third-class mail per week, and that 70% of those in the survey had a favorable attitude toward receiving third-class mail.

Mr. HANLEY. Well, Mr. Day, as I anticipated, your testimony is certainly excellent. You cover a lot of points and you do so in a comprehensive fashion.

May I ask, when you were Postmaster General, did you at any time take any steps toward removing addressed advertising mail from a definition of a letter?

Mr. DAY. No, I didn't, and I don't think I ever even heard of the problem. I don't think it was a big issue because while Congress controlled postal rates the rate increases were always spaced several years apart and they always were in relatively modest amounts.

When I was part of the Kennedy administration, the postal rate increase proposal which was put in in 1961—of course, it was only a 1-cent increase for first class—I thought some of the proposed increases for the nonpriority classes that had been worked up by the staff were pretty high, and I turned out to be right because Congress wouldn't accept that bill. Those increases were toned down in 1962 and they went into effect and they didn't have the same kind of radical impact that the last two increases have had on all classes of mail. So that I never even heard of that problem.

Mr. HANLEY. It never surfaced at all throughout your administration?

Mr. DAY. No. There were some important parts of the Post Office that I really never had brought to my attention very much. I knew very little about the private express statutes in those days. They didn't seem to be any particular problem. Once in a while somebody would come around and try to get a ruling that they weren't under the private express statutes and that's about all I heard of the subject.

Mr. HANLEY. I was delighted with your reference to New York State and the exemplary procedure utilized by the public service commission. It was very nice of you.

Mr. Day, you don't make any reference to this in your testimony but I assume that you support it, and that is the authorization aspect. Your testimony suggests general support of the subsidy and so forth. So if you were Postmaster General you wouldn't have any reservations about that requirement, would you, the authorization procedure?

Mr. DAY. No. I think there needs to be a more meaningful congressional oversight. I think the oversight function has been faced with a great deal of begrudging reaction from the Postal Service and it's no wonder because there isn't really much that can be done with the present setup. It was perfectly workable to have to come in and tell the whole Post Office story from top to bottom in connection with the previous system of getting appropriations, and I think it would make congressional advice in this field much more meaningful.

I can't ever forget the time that Mr. Blount went over and held a press conference early in the morning before he was to come over here to testify and announced publicly that he was going to turn over all of the building program of the Post Office to the Corps of Engineers, which turned out to be a debacle, and the General Accounting Office told him he couldn't do it. But there were some people over here that knew a little about that sort of thing. There was no use of pulling that one, of announcing it before he came over here, but I think it's been typical of a lot of the difficulty of getting congressional input into Postal Service policy.

Mr. HANLEY. Yes. And on that score, it's disheartening to note the action of the Board of Governors with regard to the construction and capital investment program. I understand that they have shelved

about a quarter of a billion dollars of that program, including five facilities that were supposed to get started reasonably soon. I would suggest that if this is going to occur, how are we going to complete that work and sophisticate it to the extent that we can provide the quality of mail service that they tell us our people are going to enjoy?

There has been some discussion as to whether or not it would be better to specify what a public service subsidy should be used for rather than to generally define public service costs up to 20 percent of the budget. Which would you favor? Would you favor the approach in H.R. 15511 or do you think we should be more specific?

Mr. DAY. I think it's far preferable to have it a general subsidy without attempting to earmark what it's to be used for. It is so difficult in the Postal Service even now to know what given operations cost. That's what is bogging down these permanent rate hearings. There's constant controversy over what given operations cost. If you attempt to say that you're providing money only for certain functions you're going to get into that same kind of a controversy as to what it costs to provide fourth-class post offices or rural mail delivery. I think it better to have it a general authorization.

Mr. HANLEY. I see.

Mr. DAY. A general subsidy, not a general authorization. A general subsidy.

Mr. HANLEY. So the language of the bill as written presently would be satisfactory?

Mr. DAY. Yes; I think so, Mr. Chairman.

Mr. HANLEY. Now you have suggested placing a ceiling on future rate increases and increasing the public service subsidy. If the Postal Service is still going to get its money, how does this place any financial discipline in the Postal Service?

Mr. DAY. In connection with the proposal for increases limited to the increases in average annual income and personal income, I think that the system we had before the Postal Reorganization Act was the most realistic system, and that is for there to be a determination of what rates, both in amount and in speed of putting another increase after the previous one—I think a determination should be made as to what is reasonable by some objective test, and then if postal costs have been such that they don't fit into that limit the difference would have to come from Congress.

I don't think that present-day mail users should be hit with this rapid succession of very high increases just because the ultimate mechanization of the post office is still in the future. I think we should be getting some benefits now and when they get their mechanization in the future—and mechanization really has progressed very little since postal reorganization—but when they get it, then they can have their rates more under control.

As it is now, all reorganization has done financial wise to have rate increases that never would have been accepted, in my opinion, under the old system.

Mr. HANLEY. I see. Much of the rationale on the part of the USPS for rate hikes is related to the inflationary problem. Would you agree that generally speaking this provides a necessity or have they gone beyond the problem of inflation?

Mr. DAY. Well, they have gone beyond the problem of inflation in many of their programs. I think the bulk mail system had nothing

particularly to do with inflation. It had to do with a particular approach to trying to save some of the parcel business for the Postal Service as against the competition of United Parcel Service.

If the Postal Service continues to lose large amounts of parcel business, the parcel business isn't going to support those big facilities and we're going to have a real financial white elephant on our hands. Other classes of mail that get little or no benefit, even theoretical benefit, out of the bulk mail system are going to be stuck with that expense, and it has very little to do with inflation.

Similarly, they have tremendously increased their budget for such items as research and engineering. Now, if there were some results forthcoming, it would be very encouraging because everybody wants as much improvement in mechanization as possible, but they haven't shown any indication as to really having a planned program for using this money efficiently.

So while we all know the biggest part of the Postal Service budget goes for payroll, still the amount that doesn't is about \$2 billion, and many spending programs in that part don't have to do with inflation.

As far as the impact on payroll, that's why I think this limitation to the percent increases in average annual personal income is a good test because that reflects the whole society as far as earnings going up.

Mr. HANLEY. Thank you, Mr. Day.

Mr. Ford?

Mr. FORD. Mr. Day, it's always a pleasure to have a chance to talk with you about the Postal Service.

One of the matters that you have mentioned in your statement is this whole question of establishing costs and the Postal Service's present costing methodology. When I first encountered this whole problem as a member of this committee back in 1967, when we had a massive attempt to readjust rates and so on, like other members of the committee. I was astounded at how many different opinions there were on how you establish what the actual cost of a given service or class of mail within the Post Office Department was.

Of course, it's clear that whatever method you use to establish costs requires a lot of very subjective decisions as a basis. Since we have had the Postal Service, in the opinion of many of us, with some diminishing returns in terms of public service as opposed to the simple handling of mail, we have had a constant sort of a dialog in this committee as to what we could do to retain the concepts of service and recognize that they are not to be counted as a part of the cost of doing business if all we were doing is simply carrying packages and letters.

Can you tell me if we have made any progress since we have taken on the new corporate structure toward a more, if I can use the term, businesslike method of determining a distinction between those aspects that are services performed as a result of policy decisions by the Congress and the administration, and the actual delivery of mail; and then, thereafter, if we are in any better shape than we were 5 years ago in actually determining what it costs us to do specific things in the Postal Service?

Mr. DAY. Yes. Well, about the time that the Postal Corporation came in, there was somewhat by coincidence a shift by the Post Office—Postal Service—to a more enlightened costing system. For 40 years they had used the fully allocated cost system where they attempted to

assign every cost to some class of mail, and that was criticized by the Kappel Commission. There was a study made by a leading accounting firm and they recommended a different system. The Postal Service shifted to that different system even before the actual corporation bill went into effect.

Under that system, rather than forcing every cost into some class on a fully allocated basis, they used this attributable cost system whereby half or now less than half of costs are actually assigned directly to a class of mail and the rest of it is done on the basis of what is often referred to as judgment, but it is on such tests as value of service, as elasticity, how much of the business of that class would be lost if the rates go up a particular amount. I think it is a better costing system. In the current rate case, the ombudsman opposes it. He wants to go back to what's very close to the old fully allocated cost system. United Parcel Service opposes it for reasons I think are obvious.

The Postal Service has proposed a rather modest increase in parcel post rates, and United Parcel Service wants those rates to be raised by an astronomical amount which would really wreck the parcel post operation of the Post Office. And there's only one other party beside UPS and the ombudsman that's opposing the current cost system. But I think part of the difficulty is it's not just the intervenors and the parties that count; it's the presiding judge himself, and he doesn't seem to be too crazy about the Postal Service costing system.

So I think progress has been made, but it isn't the kind of progress that's moved away from controversy. It's caused new controversy.

As far as your specific question on separating out those things the Post Office does that are a matter of congressional policy rather than just a materials handling operation, I don't think this system achieves any more on that than the other system does.

Mr. FORD. With regard to establishing a costing system, has the new status of collective bargaining in the Postal Service had any impact that you can perceive on the methodology that they have adopted?

Mr. DAY. No. I don't see any. The only thing that I see that has come into Postal Rate Commission proceedings on labor negotiations is that the administrative law judge has held that the level of pay increases and whether they were beyond comparability cannot as a practical matter be tested out before the Rate Commission.

Mr. FORD. Well, you mentioned the fact that there's so much emphasis placed on that portion of the budget which is personnel cost, which obviously, in labor intensive operations such as the Postal Service, on a percentage basis is very high, but very little attention is given to that portion of the operating budget that is not attributable to personnel costs. And it has been suggested by others that the pattern of collective bargaining now has developed a defense posture with the Postal Service as it happens in other industries, where for the purposes of collective bargaining with the employees it's necessary to build a very detailed picture of increases in personnel costs while tending to downplay or in some instances perhaps not properly measure the increases of other costs that run hand in hand with them.

Mr. DAY. Well, I think that's a real possibility. A group of the intervenors in the rate case, about a dozen of them, got together and hired a very good consulting firm which concluded that on other types of costs there was a big gap between what the Postal Service should

be asking for legitimate increased costs and what they were in fact asking for. The excess totals about \$335 million; and we did feel from that study from real experts that there were a great many of the increases that are in their current rate proposal that weren't properly documented. They didn't have adequate data on them, and they weren't able to show why they really needed them.

Mr. FORD. Thank you very much, Mr. Day.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. Day, may I ask if the Governors should keep their veto power over classification changes, why, then, should they not retain their veto power for rates?

Mr. DAY. Well, on classifications, I feel strongly that the current system is a very good system. There's not much wrong with it. The Postal Service proposed six rather limited changes in the present classification system. The ombudsman and a couple of other parties in the classification case have come in with all kinds of proposals to throw everything out that's been done over these 180 years of Postal Service history and to start all over again with some kind of theoretical approach to classification based on shape or based on appearance. All these things push aside everything that's been developed from practical experience, and they give everything that's been done in the past a brushoff on the ground it was done by Congress and was therefore political. It was actually done as a matter of reasonable negotiation and compromise and it works.

So I propose the Governors continuing to have the control just to keep some of these way-out ideas from unnecessarily causing turmoil on postal classification. I don't think anybody in the public is going around urging widespread revolutionary postal reclassification change. It's just because there are certain people now that have ended up in positions where it's their role to do something and they're going to prove they're going to do a lot.

On rates, we know that as a practical matter there's a great limit to what the Governors can do on rates because they have to have the money. They can't reject the proposal and go back to not having that money, and I think therefore that it isn't too important whether they step into the picture or not.

I, myself, don't see any wild proposals on rates, much above the Postal Service proposals being a real possibility for approval now. They may be if they get an entirely different costing system, but I think now while the rates will all be too high, I think the relationship among the rates will continue somewhat like it has.

Mr. HANLEY. What's your opinion of the continued use of the separate category of airmail?

Mr. DAY. Well, I think it's largely become an anachronism. One of the things that is being used in or talked about in the classification case is not only to have a class of first class that would get a discount for presorting, but another type of thing is a class of first class that is really top priority and another one that would get somewhat deferred service.

I think many people use airmail because they have the impression—and there's certainly justification for this impression—that it does get the highest priority handling of anything except special delivery, but they certainly aren't getting much for the additional amount they pay

for it in many situations because of the fact that so much first-class mail is carried by air regardless of whether it has an airmail stamp or not. There isn't as much carried by airplane as used to because the planes aren't available at night as they used to be.

Mr. HANLEY. Some have described it as a Postal Service rip-off. Would you adjudge this to be an apt description?

Mr. DAY. Well, if it means the post office has this as some big gimmick. I don't think so. I think Mr. Klassen has been most frank about the fact that people don't get much for it and the volume of it is going down. Nobody has to use it if they don't want to. I think he's been part of telling people that maybe they're wasting their money in many situations putting an airmail stamp on it. So I don't see it as being a rip-off as I think of that term.

Mr. HANLEY. Mr. Ford?

Mr. FORD. I have no further questions.

Mr. HANLEY. Mr. Day, on behalf of the committee, our deep appreciation for your appearance here this morning and I reiterate that your testimony was excellent and certainly is going to contribute greatly to our deliberations.

Mr. DAY. It's a pleasure to be here this morning. Thank you.

Mr. HANLEY. Thank you.

Our next witness this morning is Mr. John Jay Daly, senior vice president of Direct Mail/Marketing Association, Inc.

Mr. Daly, I regret very much that I have to leave. I am sitting in a conference on mass transit. I apologize for my departure but I leave you in the good hands of the gentleman from Michigan.

Mr. FORD. Thank you. I think I should advise you that I have just been informed that at 11 o'clock I have to appear before the Rules Committee where I have something to say about the proposed abolition of this committee. The Bolling report just doesn't seem to go away. As the late Gen. Douglas MacArthur used to say, it takes a long time to fade away, but we have been held off until the very end and apparently at noon they are going to stop taking testimony. I am sure that we in this committee have been held to the very end because they wanted to save the best for last. So at 11 o'clock I'm going to have to leave and I would appreciate it if you could summarize your statement and we will, without objection, insert the full text of your prepared statement in the record at this point.

[The prepared statement follows:]

STATEMENT OF JOHN JAY DALY, SENIOR VICE PRESIDENT, THE DIRECT MAIL/
MARKETING ASSOCIATION, INC.

Chairman Hanley and members of the subcommittee, it's indeed a pleasure to appear again before this distinguished committee this morning. For the record, my name is John Jay Daly and I am Senior Vice President of the Direct Mail/Marketing Association, more familiarly known as DMMA, and until last October DMAA—the Direct Mail Advertising Association. I've been with this national trade group since 1963. We are the largest and oldest international trade association of firms which use a variety of media to sell all types of goods and services. We represent over 1800 firms located in 47 states plus 30 foreign countries. We provide services for over 2800 individuals with research and specific information about ways they can sell their wares more efficiently. I have attached for the record, a mini-roster of DMMA member firms.¹

I would like to begin. Mr. Chairman, by applauding your comprehensive legislative effort as embodied in H.R. 15511 to reform "postal reform."

¹ The booklet referred to was retained in the files of the subcommittee.

The introduction of this legislation serves to provide a focal point for the intelligent exchange of ideas and proposals on how the Postal Service can better serve the diverse needs of the American people.

We commend you for soliciting a wide range of viewpoints on this proposal including labor, the Postal Service itself and those of us who represent the many firms who offer through the mail the finest services and products we can. The final result of mixing these sometimes diverse views in the crucible provided by these comprehensive hearings will surely be the eventual development of a Postal Service which better serves the needs of the people—as was intended in the original Postal Reorganization Act.

You have performed a real public service with the introduction of this proposed legislation and we welcome the opportunity to support and comment on some of its many provisions.

Encourage the marketing philosophy

Before commenting on the various provisions of H.R. 15511, I would like to reiterate a point that is probably obvious, and one that DMMA has made numerous times before while appearing on Capitol Hill but which nevertheless bears repeating. Essentially, it is that the Postal Service will perform better to the extent that it adopts and encourages a true "market philosophy" in its day-to-day operation.

There are now Marketing and Product Managers in the postal hierarchy and that is good. There are service standards, even though they aren't always met with the regularity we—and they—would like.

In addition, USPS over the last several years has increased its efforts to work closely with its customers. Many DMMA members have been actively serving on task forces and various advisory groups to help USPS know about and meet the needs of its customers. We hope this business-like approach by USPS will continue and strongly feel that its problems will be eased to the extent it instills the "marketing philosophy" throughout its various departments.

Public service appropriation

As we have repeatedly testified before, DMMA strongly supports an increase in the public service appropriations to USPS, and we commend you for including that as a major provision of your proposed legislation.

Since USPS does provide such inestimable public service, we believe it should receive directly—as your bill provides—a public service appropriation from the U.S. Treasury annually. There is a possible problem however. Tying the subsidy to the immediately preceding fiscal year might not work since the budget will have to be presented during the immediately preceding fiscal year. Total operating expenses for that year would not yet be known. We suggest utilizing the fiscal year immediately preceding the fiscal year in which the budget is presented.

The mails—like agriculture, airwaves, electric utilities, telephone, ocean shipping, education and many other necessities have traditionally received direct infusions of Federal funding in one form or another. The Rural Electrification Administration (for one example) has loaned out over \$11 billion in the last 40 years at low interest to provide services to parts of the nation which otherwise couldn't have these services—or get them—as soon or as economically.

It is clear there are institutional public service costs inherent in running any postal service, regardless of the country's size. In a giant one, USPS must guarantee a service which enables every citizen of this country for the same price to have the privilege of sending mail to, or receiving it from, any other citizen—on a daily basis, regardless of his location! We felt it is in the national interest for part of the cost of this monopoly to be borne by all citizens—as taxpayers. One way to think about this would be as if each mail recipient paid, in taxes, a nominal annual fee for the privilege.

Extend time period before "temporary" rates go in

The membership of DMMA is particularly heartened by your suggestion in H.R. 15511 to increase the waiting period that must pass before the Postal Service can institute "temporary" rates. As you well know, implementation of temporary rates by USPS is essentially a unilateral action without benefit of any mailer participation via hearings or otherwise. Essentially, the decision seems unreviewable in court and experience clearly shows such rates have lasted a long, long period of time.

It's clear the current 90-day period before the Postal Service can implement rates is unrealistic and is too short of a period. Your suggestion to increase the period to 180-days is well taken; however, we feel it would be more realistic to increase the period to 270 days. This would give the Postal Rate Commission a full 9-months to complete its proceedings which is a reasonable period of time and more realistic.

We realize, of course, that institution of this provision might cause a certain degree of revenue loss resulting from this stretch-out of time. However, we think USPS would thus be encouraged to make more efficient and economical use of their resources in order to make up any potential revenue loss.

Decrease in ceiling on temporary rates

Relating to your provision to decrease the present ceiling on temporary rates, we are again in agreement with your proposal. Again, we would like to suggest you consider a further revision in this area. We would like to see that section 3641 be modified so that it is clear that the provision relating to the "rate or fee requested" applies also to phased rates.

Since the purpose of phasing is to mitigate impact, there is absolutely no justification for dephasing of temporary rates in the absence of an appropriations failure. Yet USPS claims this power and has been upheld by the courts, principally because the Act is written so that the temporary rate authority is in a different subsection from the permanent rate authority. This problem could be solved by adding a sentence to Section 3641 (c) as follows: "Where the rate or fee requested is subject to reduction under Section 3626, the temporary rate may not exceed such reduced rate."

Private express statutes

As you know, Mr. Chairman, DMMA testified before this Subcommittee last October 31, on the important subject of proposed changes in the Private Express Statutes. We were rather surprised when the Postal Service recently issued their final version of the proposed new statutes in spite of the fact they had repeatedly indicated they would not do so until the Senate Post Office Committee held Hearings. Equally, it should have also received your committee's recommendations.

However, we do not feel the question is moot for surely Congress can make appropriate changes in the statutes in the public interest.

Basically our position remains identical to that which we expressed before your committee last year. Given the lack of incentives to efficiency inherent in a monopoly, we believe that the monopoly should be defined as narrowly as possible consistent with maintaining nationwide service at reasonable rates.

We urge that the monopoly be refined so as to cover only priority letter mail (i.e., airmail and first-class letters) while all mail advertising—sent in bulk—be removed from the coverage of the private express statutes.

Rate hearing costs prohibitive

Another comment may be in order here. This concerns what can be done about the ever-increasing costs it is necessary to bear in order to take part in the never-ending rate and classification proceedings before the Postal Rate Commission.

The exorbitant cost of protracted rated hearings and the seeking of legal clarifications of ambiguous language in the Reorganization Act seem definitely to be negative features of reorganization.

Indeed, the cost of participation has become prohibitive for some individuals and many small groups: for large national trade associations with such a keen interest, such as DMMA, it is becoming frightfully expensive. This is particularly true since our limited budget is strained by the expanded costs of representing our members before other regulatory agencies.

It might be well advised to require all intervenors in the cases to file their total legal and economic costs so that the PRC, USPS and others, can more accurately assess the impact of participation in the cases on the medium. We are but one of dozens of intervenors and I would venture to say that if our costs were added to that of all the other groups taking part in the proceedings, the figure would be astronomical.

In closing, Mr. Chairman, there's a general major thought I'd like to leave with your committee.

In some ways it's reflected in the name change of our association, DMMA referenced early in our testimony. It's also the subject of continual conversations among many in our media that I encounter in my travels to various meetings,

workshops, symposia and other gatherings of our industry. Namely: the need for the U.S. Postal Service to somehow become and remain more competitive with other advertising media.

It's not the rate alone. Or the attitude of postal personnel toward mail advertising. Or the "acceptability" of this form of selling. It's none of these alone. Yet it's all of these together that cry out for improvement.

One dominant characteristic of direct marketers is the continued challenge to experiment . . . to test so as to determine the best and most cost/efficient way to bring in profitable returns. Orders. Sales. The economic lifeblood of our system.

All of the points we've talked about this morning bear, in one way or another on the essentiality of what has been discussed by other witnesses during this hearing, namely: how can Congress best frame the laws to achieve an efficient and economical nation-wide public service called the U.S. Postal Service. Only by gathering in all the views you have can you possibly begin to frame the structure that's needed to satisfy the divergent views. We've given it a lot of thought over the years, yet we still come back to the basic point we've reiterated at every opportunity.

The Postal Service, while it should be run in a business-like way, it not now and never should be a business!

It's basically an essential public service. One which is so valuable to all the facets of the public as to be almost immeasurable.

Therefore, don't be misled by criticisms that public service allocations of from 20% to 25%—indeed 30% of operating costs—are an unconscionable drain. Think of them in another way. They provide the essential link which connects our economic groups in countless ways.

The present costs to many occasional users of the mails is really being subsidized by frequent users since, without them, the occasional user would have much less frequency to rely on. This infrequent use can only lead to less and less use, until the system itself falls into hopeless deterioration.

In closing, let me thank you again for providing this opportunity for DMMA and the many other parties interested in the success of Postal Reorganization to present our views in this important forum.

Mr. HANLEY. You may proceed, Mr. Daly.

**STATEMENT OF JOHN JAY DALY, SENIOR VICE PRESIDENT,
DIRECT MAIL/MARKETING ASSOCIATION, INC.**

Mr. DALY. I certainly can appreciate the time constraints that you operate under, and we do appreciate the opportunity to appear before you.

As was indicated, my name is John Jay Daly, and I am senior vice president of the Direct Mail/Marketing Association, a large group of mailers and users of all classes of mail.

Basically, we'd like to encourage continuation of the Postal Service's marketing philosophy in their day-to-day operations. It's something that deeply concerns us that not enough attention seems to have really been paid to this, although in fact they have made many good attempts, and there are very often partly assigned—

Mr. FORD. Could I interrupt you to ask you a question? I participated last week in what was billed as a minisummit conference on the economy held in Detroit—it had no relation to Detroit. It could have been held on the Moon for our special problems. But yesterday I participated in a meeting in anticipation of Friday where it's been indicated that everybody has participated. I couldn't find anybody from your industry on the list.

Was your industry included when the invitations went to people around the country to make suggestions in anticipation of the summit Friday and Saturday with regard to inflation and its effect on you?

Mr. DALY. No, it was not, and we, of course, not being invited, did seek to be invited, but they said there were already enough people at the summit. This actually is true broadly of advertising itself, not just our particular segment of the industry. We think that's quite unfortunate because certainly many things that advertising can do to hold down costs need to be brought up at a summit meeting of this kind which I think need to be brought more to the fore than they heretofore have been.

Mr. FORD. Thank you. Go ahead.

Mr. DALY. This, of course, relates to the overall problem as we see it as advertisers using the mails and all classes of mail to increase the economy and increase the gross national product. We have continued to urge, as we have before, that the Postal Service's public service appropriation be substantially increased, perhaps even larger than it is asked for in this particular bill, but in any case, it ought to be substantially increased.

We also recommend that the temporary rate period, the period before temporary rates, be increased beyond that recommended in this bill, perhaps up to 270 days, because it is now evident we will face on Friday—rather, on Saturday—the 1-year anniversary of the beginning of the current postal rate hearings, and the last ones, as we know, lasted well over a year. This one could very well last 1½ or 2 years, as Mr. Day has indicated.

So the imposition of temporary rates does make, as the chairman has indicated, the rate hearings themselves seem to be quite an exercise in futility; and even though the Postal Service has already announced that on October 20 the new final versions of the private express statutes will go into effect, we would urge that Congress take another look at that; and particularly, we support Mr. Day's view that all mail advertising sent in bulk and addressed be removed from the category of private letters in an effort to stimulate greater competition because we think that competition in this particular area can only enhance the productivity and the efficiency of the Postal Service itself.

Again, in summary but in conclusion, in my particular role as representing a dynamic and changing medium, a medium that is using various means of advertising—we have changed our name a year ago from the Direct Mail Advertising Association to the Direct Mail/Marketing Association because so many of our member companies are using all media of advertising—radio and television and skywriting and inserts to newspapers, space ads in magazines and newspapers, in an effort to try to sell their product. They are continuing to experiment.

Of course, as the rates go up, whether it is regular rate bulk, third, or other classes of mail, they continue to try to find a more cost-efficient means by which they can sell their produce or service, and they are always measuring the results of everything that they do so that we continually are worried that maybe the cost of mail, whether it is third-class or the other classes of mail, will go so far out of sight as to be very unproductive for advertisers. Then, of course, you get into the kind of situation that we have experienced in the parcel post hearing where volume diminishes simply because the costs are prohibitive for so many mass advertisers.

There will always be a place, of course, for mail for certain kinds of advertising, but if it begins to price itself out of the market—

and it has for certain kinds of mailers—they are reporting as they begin to look into their budgets for this fall and next spring that they are mailing less and less simply because of inflationary pressures and the cost of mailing continues to go up. So we are worried about that aspect of it.

This, linked with the fact that there is this break-even obsession of the Postal Service that it continue to seem to think that they can charge almost anything that the traffic will bear, may well be so for certain traffic, but much of that traffic will diminish over time, and that is the trend that we see and one that we fear greatly.

In conclusion, as I have stated at the end of our testimony, we firmly believe that the Postal Service should recognize more that it is a public service and that it provides a link for all Americans, and the value of the Postal Service linking this great country of ours is not something that you just stand up on the Fourth of July speeches and wave the flag about, but it is a very real fact of life and the appropriation from the Congress should rightfully recognize something in the area of 20 or perhaps 25 percent of the Postal Service's operations are a public service. It's a song we have been singing for many years and maybe not in time or not in the greatest effect, but we firmly believe that a recognition in this area is one way in which the Postal Service's problems certainly can be minimized.

Mr. FORD. The irony is that many people in this country are seriously considering additional direct payments to keep air routes that can't make it in the business or can't get back into the passenger business, and others are seriously considering that we bail out one of our major airlines because it hasn't been able to break even and at the same time we are still rushing headlong toward the idea that somehow the Postal Service ought to operate in the same period of time to a break-even basis.

Mr. DALY. I keep shaking my head about it, but I wonder at what point we will be able to catch the general public's attention to this. I wonder whether it will take a 15-cent stamp or a 25-cent stamp or whatever it might be to bring this to the general public's attention.

Mr. FORD. Thank you very much.

Mr. DALY. Thank you.

Mr. FORD. Our next witness will be Kenneth Fiester, consultant, International Labor Press Association.

STATEMENT OF KENNETH FIESTER, CONSULTANT, INTERNATIONAL LABOR PRESS ASSOCIATION, AFL-CIO

Mr. FIESTER. Thank you, Mr. Chairman.

Mr. Chairman, my name is Kenneth Fiester. I am appearing before you on behalf of the International Labor Press Association, AFL-CIO, in which I have held all the available offices at one time or another.

Let me say at the outset, Mr. Chairman, that your authorship of H.R. 15511 is the most encouraging development on the postal scene since the Reorganization Act took effect some 4 years ago. This is not to denigrate in any way the other reform bills that have been proposed in both Houses during that time—and especially not the stay of execution, known as S. 411, which as H.R. 14194 you guided through the shoals of the House last June.

What distinguishes H.R. 15511 from all the rest is its categorical acknowledgement that the public service obligation of the postal system—its basic reason for existence—cannot be fulfilled on a pay-as-you-go basis. We have made this same argument from the very beginning of the first rate case under the Reorganization Act. A continuing, substantial subsidy to the Postal Service from general revenues is, therefore, an absolute necessity to preserve the widespread diffusion of diverse information and opinion upon which a truly democratic society depends. In particular, such a subsidy is essential for the survival of an effective labor press.

Before offering our comments on the specifics of H.R. 15511, and our suggestions for its improvement, I would like to describe briefly, for the record, the organization I represent.

The International Labor Press Association comprises some 400 periodicals published by the AFL-CIO and its affiliates, with a total per-issue circulation of about 20 million. Almost invariably the subscription cost is part of the dues paid to the publishing organization by its members. The great majority of these periodicals are distributed through the mails under nonprofit second-class permits.

At the present time, 43 of our members are weeklies, a decrease of 12 in 3 years. About 240 are monthlies; about 30 each are biweeklies, bimonthlies and quarterlies; the balance are on odd schedules or none at all. The figures are not precise because we lose and gain affiliates from year to year. Our ranks include almost all the bona fide, printed periodicals of AFL-CIO unions and a baker's dozen produced on office machines.

One hundred of our member publications are issued by national or international unions of the AFL-CIO, about 75 by city or State central labor bodies and the remainder by local unions, joint boards and the like.

There are, we estimate, at least 50 other bona fide trade union periodicals published by unaffiliated unions—primarily the Auto Workers, Teamsters and Miners—that are ineligible for membership in ILPA but are otherwise similar to ours.

These trade union newspapers and magazines vary greatly in size, content and quality. But they have characteristics in common:

First, they are small. A 40-page magazine or a 24-page tabloid newspaper is a rare giant by our standards. A 12-page tabloid (sometimes folded to make a 24-page, half-tab magazine) is probably the median.

Second, they are poor. Most union publications do not take advertising as a matter of principle. Some—primarily central body organs—must take advertising to survive, but are severely limited by AFL-CIO and ILPA regulations as to the kind of advertising they can accept and how they can solicit it. To an overwhelming degree, labor papers are paid for entirely by union dues.

Contrary to uninformed opinion, labor organizations have no money to spare. A small number of national unions have presumptive resources of many millions, but such money is almost without exception in pension and welfare trust funds, or in strike relief funds, and available for no other purposes. Ordinary income and expenses are chronically in precarious balance throughout the labor movement.

Third, our publications bring to their readers essential information that is available through no other medium. Union newspapers tell

union members when and where they can vote for their officers; when and where there will be a vote to accept or reject a new contract, and what the terms are; how much money their union took in last year (or last month), and how it was spent; what is going on in the organization outside their own local unit; what policies are being pursued by their local, State and national leaders, and by the AFL-CIO.

Better-informed union members lead to better unions, just as surely as better informed citizens lead to better government. And in our case there is still another factor: A part of the information I have mentioned, the part that involves election notices and financial reports, is not only socially desirable but legally mandatory under the Landrum-Griffin act. Surely the Congress wants this mandate to be fulfilled as effectively as possible; and the most effective way, by universal agreement, is through a union publication, timely delivered to each member in his home.

Ironically, this third characteristic of the labor press—the transmittal of information found nowhere else—has been intensified by the communications revolution of the last 30 years. The emergence of television has not only diverted public attention from the printed page but has profoundly altered the contents of the typical metropolitan newspaper. More attention, and I think better attention, is given to national and world events, and to interpretive background that television cannot hope to match. Far less attention—and sometimes none at all—is given to the simple reporting of what goes on in town. And that includes the reporting of trade union news, other than chicanery or strikes.

Other nonprofit organizations find themselves in the same position; the week-to-week undertakings of churches, fraternal societies and veterans' organizations are no longer sought out and written by young newspaper cubs seeking to work their way up to a police beat. To reach our members, all of us have to do it ourselves. This requires the kind of postal rates that the periodicals of nonprofit, public service organizations have historically enjoyed.

Such rates cannot possibly cover the cost of carrying these periodicals through the mails. They cannot meet the "attributable costs," no matter how they are calculated.

I am aware, Mr. Chairman, that at this juncture the proverbial Man from Mars—and very possibly, some terrestrial skeptics, too—might offer a countering argument, along these lines:

Granted that these periodicals are not merely worthy but in fact indispensable; why, then, are their publishers, their recipients or both unable or unwilling to cover an additional postage cost of 2 cents or even 5 cents a copy?

I think all of us who believe a subsidy is necessary have an obligation to face this question head-on.

For publications of what are called central bodies—the State federations of labor, the city or county labor councils—the arithmetic is clear. These voluntary associations of local unions function on a per capita income that averages about a dime a month. A postage rate that will run to at least 2.7 cents a copy, even under the present schedule, is obviously a budget item of enormous size.

Even in the prereorganization days, when postage for a typical labor paper was 0.2 cent a copy, the production of a regular membership periodical—even a monthly, much less a weekly—was beyond the regular income of an AFL-CIO central body. These papers generally depend on two additional sources of income: First, local unions affiliated with the central body vote to pay an additional fee, perhaps 5 cents a member a month, if they want their members to receive the paper; and second, the paper itself sells advertising space.

Neither of these is a rich source. The subscription price must be kept low to insure maximum circulation. Advertising is severely limited by ethical codes promulgated and enforced by ILPA and the AFL-CIO. For instance, only consumer advertising is acceptable, and only from local merchants or from national companies whose products are sold locally at retail. No political ads whatsoever are allowed, nor ads from companies on a union unfair list. Telephone solicitation is forbidden, except with respect to an established, continuing account, such as a local department store.

Above all, it must be made clear to every advertiser and potential advertiser that all he is buying is space in the paper—not labor peace, nor good will beyond his relationship with his customers.

In view of these various restrictive factors, we have no doubt that the postal rate progression as now contemplated will cause the suspension of very drastic curtailment of nearly all the 75 ILPA periodicals presently published by State and local central bodies.

With respect to national unions and their individual locals the financial balance is not as dramatic but the problem, in most cases, is just as severe.

For a decade or more the monthly dues payment of a typical union member, calculated by such sources as Business Week magazine, remained at about \$5. Recently there has been a slow upward trend, assisted in part by the spread of dues scheduled tied to hourly earnings. For purposes of this discussion, let us assume that the median figure has reached \$6 a month.

The internal financial arrangements of national unions differ widely, of course, but in general the monthly dues payment is divided about equally between the national and the local organization. At a \$6 total, this gives each one a per-member income of \$3 a month.

In contrast with the central bodies, the problem of these organizations is not the literal lack of a nickel, but the prudent use of nickels in quantity. And there are claimants in plethora, not just for every nickel but for every cent.

The national unions and their locals carry out in their separate ways virtually all the activities associated with the labor movement—the negotiation and administration of contracts; the direction and support of strikes; organizing the unorganized; labor's side of mediation and arbitration proceedings; leadership training; economic research and analysis in the occupational areas covered by the particular union, and much more. And through per capita payments out of their respective \$3 shares, the national unions finance the AFL-CIO and the locals finance its State, county and city subsidiaries.

Union leaders, both national and local, must thus decide how to allot this \$3 per capita in a way that best serves the members' interests in a manner consistent with the members' wishes. Since there is never

enough money to do all the things that fit within this framework, the leaders must constantly make choices among worthy alternatives.

The importance of a periodical as the one regular channel of communication with the membership may be thoroughly appreciated by the union leaders. But if, as in the case of the Machinists, a 1 cent increase in postage amounts to more than \$8,000 a week, with an even greater increase in prospect, conscientious leaders must ask themselves if paying this extra sum in postage is the wisest use that can be made of it, or should the frequency of publication be cut, say in half.

The gross figures vary from union to union, of course, but the nature of the problem remains the same.

The man from Mars might have one other question: Why not raise dues? The only answer is that union dues are limited by the amount the members are willing to pay, since dues are set by convention, by referendum or some comparably democratic method. The union electorate's response to a dues increase is no more predictable than a State's electorate's response to a school bond issue.

I freely acknowledge that in each category of labor organization there are a few that could pay any postage rate the USPS might ask and the Rate Commission decree. But the proportion is minuscule compared to the transit riders who could afford an unsubsidized fare. To cite only the most current example of a subsidy designed to achieve a highly desirable result, which incidentally benefits some who don't need it.

Now, Mr. Chairman, having described the specific postal problems of the labor press, I would like to comment on the possible remedies, including those contained in H.R. 15511.

As I said at the start, we heartily endorse as an absolute necessity an annual subsidy to the Postal Service, on a continuing basis, and we don't consider 20 percent of operating costs to be excessive. But our concern—one that it shared, I am sure, by members of the committee—is that the subsidy is in fact used for public service functions.

We don't think it's enough to leave untouched section 2401(b)(3) of the act, which requires the Postal Service to explain itself only with respect to section 101(b). We don't know how things are with respect to 101(b), but we do know we have been taking a licking under 101(a), which is surely one of the most widely quoted and most thoroughly ignored paragraphs on the Federal statute books.

The plain fact is that neither the Postal Service nor the Postal Rate Commission has shown even a glimmer of recognition that "the value of the mail service * * * to both the sender and the recipient," to quote from section 3622(b)(2), has any other meaning than dollars and cents. Ideas and information weigh nothing on their postal scales. By their standards, preference should go to advertising matter; they are oblivious to the values the Founding Fathers had in mind when they created a mail system.

With the same pervasive crassness, USPS and the PRC have given top priority in the ratesetting process to section 3622(b)(3). As you know, Mr. Chairman, their interpretation prevailed in Federal court after the first rate case, but I also think it's conceivable that their stubborn persistence in following so narrow a path is the principal reason why postal reorganization is again a congressional issue.

If neither the Postal Service nor the Rate Commission, as now constituted, can be relied upon to recognize, much less administer, a public service function—and we regard this as a demonstrated fact—how can a public service subsidy be applied in a way that fulfills the intention of Congress?

To be sure, Congress could go back to setting rates. Several Members of the House, including at least two who agree on almost nothing else, have suggested that the whole Reorganization Act of 1970 be ditched and the old system restored. This has been a beguiling notion to many of us during the last 4 years, but I really don't think it's a practical solution—at least, not yet.

A number of less drastic approaches have been offered—formulas designed to exempt, in whole or in part, certain classes of mail from the impact of whatever rate schedule emerges from the present rate-setting process. As you know, second class mail in general, and non-profit second class in particular, would be the major beneficiaries of these formulas, so obviously we take a benign view of them.

On the other hand, we make no claim to omniscience on this matter, and we have never taken a parochial position on rates. We believe non-profit second class needs the most relief in the biggest hurry, since we have been hit with by far the heaviest proportionate increases and are the least able to survive them. But as citizens devoted to the public interest we also recognize that some other classes of mail also have problems under section 3622 (b) (3); the editorial content of commercial periodicals is an example.

Let me make a brief interpolation here that's not in my text. The present postal rate for a labor press paper weighing 1.4 ounces—and these are Postal Service figures—amounts to .7 of a cent. That's a half a cent more than it cost at the time of the Reorganization Act. Today's rate is therefore 350 percent of the 1970 rate. By 1988, under the present schedule, the same paper will pay 2.7 cents a copy, 1,350 percent of the old figure. No other class of mail has been hit nearly as hard. And of course, as Mr. Day and others point out, the worst is yet to come because there certainly will be on the heels of this rate case another rate proposal and another temporary increase.

We do have a firm idea of where nonprofit second-class rates should fit into the postal spectrum. We believe our rates—and we are speaking only of the rates on editorial content—should follow the same general design as regular second-class, but be lower in the same proportion that prevails at the time the Postal Reorganization Act went into effect.

We look at it this way: The rate relationship of the several classes of mail, especially the classes having special preference, were developed over many years by the Congress. The relationships—which in most cases were periodically debated and reaffirmed, with minor changes—reflected policy decisions by the Congress, based upon the information and well-considered judgments of this committee and its counterpart in the other chamber. They have a better claim to represent a public interest approach than the cavalier, balance-sheet findings of men with little or no experience in public life.

You will recall, Mr. Chairman, that the legislative history of the 1970 act indicated an intention on the part of some participants to preserve these relationships, but except for the inadequate terms of section 3626, the intention was lost sight of in the rush for passage.

How can these relationships be reinstated and preserved? Some sort of formula is one way; you seem to be suggesting another, Mr. Chairman, in the several amendments that would increase the independent powers of the Postal Rate Commission and enhance its prestige by making its members subject to Senate confirmation.

We will enter our caveat in the strongest terms:

Not this commission!

Unless the proposal embodies a completely new start, with new members chosen by new standards, we would rather the Commission be abolished than strengthened.

Earlier this year, in our statement of position as a limited participant in the current rate case, we offered the present Postal Rate Commission some unsolicited advice. I will quote from it:

"Surely it is within the scope of the rate Commission's authority to remind the Postal Service that the preferential rates for second-class mail in general and nonprofit second-class in particular were established by Congress, and reaffirmed time after time, for very specific purposes; and that these purposes are also reaffirmed, rather than repealed, by the reorganization act itself, no matter how obfuscated they may become in its separate provisions.

"We can envision a Postal Rate Commission that genuinely believed in the historical role of the Federal mail system expressing its conviction that certain types of mail cannot and will never be able to pay rates that cover costs; and that the continued low-cost delivery of such mail is infinitely more valuable to the Republic than a postal budget that is neatly balanced by categories.

"Such a commission could then advise the Postal Service to attack this problem in a constructive way—to begin with the absolute necessity of low rates rather than the absolute demand for high revenues. This advice might well go on to say that if the Postal Service found itself unable to preserve rate preferences within a reasonable revenue structure, it should frankly tell the Congress that the public interest required an annual subsidy that would never be phased out.

"All this requires is conviction, imagination, and courage."

If you have that kind of Rate Commission in mind, Mr. Chairman, and have a set of qualifications to propose that will insure its selection, a solution to all our problems may be in sight. But that's not the kind of Commission now in office.

To get back to more mundane matters, we heartily endorse the proposed stretchout between the announcement of a rate change by USPS and the implementation of its first step. We now have the only judicial proceeding since Alice in Wonderland in which the sentence is imposed before the trial is held. We agree with several other witnesses that the stretchout should be even longer than H.R. 15511 contemplates; 9 months would be a modest term, and a year far from excessive.

We are pleased to join in the suggestion of the Association of American Publishers, duplicated, I believe, by the American Library Association, that a new criterion be inserted as 3622(b) (8): "educational, cultural, scientific, and informational value to the recipient of mailed materials." Such a criterion, as I have already indicated, is a concept beyond the ken of the present proprietors of USPS and the PRC. On the other hand, those who can so completely ignore the intent of sec-

tion 101(a), even while committing it to memory for public appearances, will hardly be moved by it. And the proposed clause does nothing about 3622(b) (3), the worst villain of all.

Mr. Chairman, this last observation has the effect of bringing me back to where I started, and I will therefore conclude with a brief summary.

Earlier in these hearings Mr. Stanford Smith, president of the American Newspaper Publishers Association, testified that for certain of his members there was, and I quote, "no feasible alternative" to a low-cost postal service.

What is true for Mr. Smith's members applies in infinitely greater degree to the labor press. A periodical mailed to the homes of members is more often than not the only way a union can be sure of reaching them, not just with general news or entertainment, but with specific information whose distribution is required by law, and information intimately affecting their livelihood.

I believe, Mr. Chairman, that the labor press has the strongest claim among all those who hope to share in a permanent Federal subsidy for the Postal Service, but other worthy claimants must also be recognized. In that spirit we offer these proposals:

1. The annual subsidy described in section 1 of H.R. 15511 should be adopted. But section 2401(b) (3) of the present act should also be amended to require the Postal Service to demonstrate compliance with section 101(a) as well as 101(b).

2. Section 3622(b) (3) should be amended as follows, striking the present language:

"No class or type of mail service shall be subjected to a rate schedule that will yield more than 10% of the direct and indirect costs attributable to it, plus a pro-rata share of all other Postal Service costs calculated by gross revenues from each class or type."

This eliminates the fixed requirement of pay-as-you-go and at the same time prevents the exploitation of any one class of mail to pay for others.

3. The additional criterion proposed as 3622(b) (8) should be adopted.

4. The time period for the institution of temporary rates (section 3641) should be stretched to at least 9 months, and even longer unless contemplated reforms in the Rate Commission are achieved.

5. Events of the last 4 years have destroyed whatever hopes we might once have cherished that the Postal Service or the Rate Commission would recognize the social functions of the mail delivery system. Both agencies seem bent upon extirpating from American thought the 200-year-old assumption that low-cost distribution of the written word is an integral part of our national life. Therefore we would feel much more comfortable with a statutory formula limiting our rates than with continued reliance on a Commission that is accountable to no one.

However, we recognize that on paper, the various sections of H.R. 15511 that are designed to strengthen the Postal Rate Commission offer a more orderly approach, sparing Congress from the task of devising and tinkering with formulas. Of course, the 1970 reorganization encompassed the same idea, and look where it has brought us. Even so, the changes set forth in H.R. 15511 might produce a work-

able solution if: one, the substance of the other proposals I have listed is incorporated into the act; two, a wholly new start is made on rate commission appointments, and three, the statement of qualifications for appointment and confirmation is broadened to include an understanding of the public service function of the postal system.

Mr. Chairman, over the last 4 years we have tried to make a basic case—the case for a mail-delivery system that will fulfill the objectives contemplated by its founders. It has often been a discouraging task. We have repeated our position so often that it's hard for the most earnest rewrite to make our ideas seem fresh—at least to us, who know them best.

Our spirits and our hopes have been raised by H.R. 15511.

We hope we have demonstrated that we do not speak for ourselves alone. We truly do believe in the freest possible dissemination of diverse viewpoints, of specialized as well as general news—of debate and dissent and discussion. And in that process there is no substitute for the printed word. What it may cost in tax dollars is and will continue to be repaid in far more valuable coin—the health and continued progress of this free and democratic society.

Mr. Ford. Thank you very much.

Some of us are more aware than others of the labor press. It provides for a good many of us the only defensive information that gets out there into what frequently, at least for some, is not a very friendly atmosphere.

As you probably are aware, the concern of many people on this committee from the very beginning of the efforts which ultimately ended up—as badly watered down as unfortunately they had to be—in S. 411, were spurred by what we saw happening to statements of the informational base of this country like the publications that you represent, and there's a broad spectrum of them, some commercial and some noncommercial ventures.

We hope that this will mitigate the impact of pressures not only to the Postal Service rate system but other things on the ability of those publications to continue.

I would hope that, if nothing else, the hearings so far that chairman Hanley has held, if anybody has been watching them, has demonstrated repeatedly that what you're saying here is enunciated by people from all kinds of businesses, a kind of a longing for some feeling of security that in fact the Postal Service will understand that the word "service" means something and not just a greater efficiency in delivering materials, but that the element of politics that perhaps most sadly has been lost is the element of the politician's desire to receive approval from the public in terms of a governmental function over which he or she has any influence. And that doesn't seem to have been a moving cause with past postal management or more recent past, although I think the present postmaster has made a lot of progress toward recognizing and giving some public recognition to the fact that it wasn't as important as it might have been in the early days of the corporation.

I note with particular interest your preference for having a statutory basis for your rates and, of course, that really would be the first step toward taking us back into congressional ratemaking. How would we have the one without the other?

Mr. FLESTER. Well, we think we are right in assuming that the Congress generally doesn't want to get back into the ratemaking business. I think perhaps the kind of device that was contained in H.R. 8929—that was the bill of last year provided a half or two-thirds—the thing varied as it went along—that is a rate cut of a given percent, half or two-thirds, for let's say the first 250,000 circulation of a nonprofit publication, and a 50/50 sharing of subsequent rate increases. That doesn't get the Congress into the business of specifically deciding what the rates are, but simply how those rates should be applied to second class or nonprofit second class. That would perhaps avoid the kind of thing that I actually was involved in for the ILPA before the Reorganization Act, when we were talking about whether the piece rate on nonprofit second class should go up to 0.2 or to 1.5, which is a kind of difficult sort of thing.

If you said, "All right, here's a schedule of rates but nonprofit or second class or any other should be subject to certain exemption on the basis of circulation"—it's not neat but it's a device.

Mr. FORD. Well, thank you very much. And again, let me apologize for hurrying you and Mr. Daly so much. I do have a problem of being at the mercy of other people to whom we are looking for help.

The committee will recess now. The next hearing will be on October 2 at 9:30 a.m.

[Whereupon, at 11 a.m., the hearing was adjourned.]

PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

WEDNESDAY, OCTOBER 2, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 210, Cannon House Office Building, Hon. James M. Hanley (chairman of the committee) presiding.

Mr. HANLEY. This morning we are pleased to resume hearings on H.R. 15511 and our first witness this morning is Mr. Kent Rhodes, first vice president of the Reader's Digest Association, Inc.

Mr. Rhodes, we are very pleased to have you with us this morning. I know that you are vitally interested in this subject matter and are recognized as one of our Nation's experts. I am confident that your testimony will prove most interesting.

Mr. RHODES. Well, we bow to you in expertise, Mr. Chairman.

STATEMENT OF KENT RHODES, FIRST VICE PRESIDENT, READER'S DIGEST ASSOCIATION, INC.; ACCOMPANIED BY TIMOTHY J. MAY, WASHINGTON COUNSEL

Mr. RHODES. I am Kent Rhodes, first vice president of the Reader's Digest Association, Inc. I am accompanied here today by Timothy J. May, our Washington counsel. First of all let me thank this subcommittee for their interest in, and efforts on behalf of, the mail system in this country. Not only does mail provide the livelihood of the U.S. Postal Service, but mail also provides livelihood to millions of citizens and to thousands of businesses, including the Reader's Digest. Mail helps keep this country running. We welcome this opportunity to comment on certain sections of H.R. 15511 which we believe deserve careful consideration.

Before making any specific suggestions we'd like to state briefly our overall assessment of postal policy, operations and objectives.

For many years the keystone of postal policy has been that the Post Office should be run as a service for the benefit of all the people of the United States—not for the benefit of any special groups, and certainly not to raise revenues for the U.S. Government. That's a good rule of thumb to keep in mind when thinking about the mail system of this country and how to go about improving it.

The legislation that created the U.S. Postal Service was passed by this committee a little over 3 years ago. Since then there has been a

good deal of freewheeling comment, favorable and unfavorable, on the performance of the new U.S. Postal Service. At the Reader's Digest we've sought to keep our eyes on some underlying facts about the Postal Service, like the speed and dependability of its service, its costs, rates, productivity, and capital investment. These are the basic yardsticks of postal progress which are relatively easy to measure. We have also studied other aspects of the Postal Service which are more difficult to quantify, but which have a real impact on the vitality and efficiency of the only organization which provides a regular two-way daily communications link between every household and every business in America.

Speed and dependability of mail service

For our own business reasons, the Reader's Digest has been measuring the speed and dependability of mail service of all four classes on a comparable basis for 10 years. The results of these tests help us determine when to send out mailings to sell our products and how many days our products and our bills will be in transit to the customer. These mail service tests of ours are not the most comprehensive or sophisticated mail service tests, but we have been conducting them in a consistent way for 10 years, so they do provide a useful long-term comparison. The Postal Service's own ODIS system provides a much more detailed analysis than ours, but it has been generating data for only 2 or 3 years.

During the past 10 years, our tests show mail service getting better and getting worse (it got pretty bad in the early months of 1973). I have included as exhibit A to this testimony a summary first-class and third-class mail service chart which shows the average number of days our mail has been in transit from Pleasantville, N.Y., to the average destination in the Nation.

It is our conclusion from studying our own mail service test data that while the mail service we receive currently is no better than it was 10 years ago, it has not deteriorated in any material way. Mail service in 1974 under the U.S. Postal Service is subject to the same variations as mail service under the U.S. Post Office Department prior to postal reorganization. We can live within these limits of quality, and we would prefer today's service at today's prices to faster service at higher prices.

It is certainly no secret that many citizens would like to have faster and more reliable delivery of their mail. Some are willing to pay for priority service. But the business community, particularly the mail order industry, which is heavily dependent upon the Postal Service, is, in my judgment, much more concerned at what has happened to costs than to service.

Costs, productivity and capital investment

Also included with this testimony is a table (exhibit B) which compares key data from the first 4 years of the new Postal Service with the same data from the last 4 years of the old Post Office Department.

That same data is presented in a simpler way (as indices of fiscal year 1968 equaling 100) in the next table and in its accompanying graph (exhibit C).

We thought it would be interesting to compare U.S. Postal Service salaries and benefits per man-year with comparable wage and benefits

figures for United Parcel Service employees. Exhibit D shows quite similar patterns of employee earnings and benefits growth for the two organizations. From 1968 to 1973, U.S. Postal Service salaries and benefits increased 58.6 percent, while United Parcel Service wages and benefits increased 50.4 percent.

Finally, we have tried to relate the increases in weekly earnings (that is, without benefits) of postal employees to other weekly earnings increase data published by the U.S. Department of Commerce, Bureau of the Census and by the U.S. Department of Labor, Bureau of Labor Statistics. To make this comparable, we used 1967 as the base year, because that is the base year of the Bureau of Labor Statistics indices.

This data and an accompanying graph are enclosed as exhibit E.

A glance at these exhibits will show in a nutshell what has really happened to the vital statistics of U.S. mail in the 7-year period since the end of fiscal 1968. For example:

Postal salaries and benefits per man-year will have nearly doubled, from \$7,687 in fiscal 1968 to \$14,950 in fiscal 1975, an increase of 95 percent.

Between 1967 and 1974 weekly earnings (excluding benefits) of postal employees have increased more (83.6 percent) than the increases of Defense Department civilians (66.5 percent), other Federal Government executive agencies (64.1 percent), private services industries (61 percent), or private manufacturing industries (55.4 percent). In 1970 postal employees' earnings were increasing at about the same rate as U.S. household median incomes (both were up about 22 percent or 23 percent over 1967). By 1973 postal employees' earnings were up 64.5 percent over 1967, compared to a 46.4 percent increase in U.S. household median incomes.

Despite dramatic increases in capital investment commitments, a sevenfold increase from \$226 million in 1968, to \$725 million in 1972, to nearly \$1.7 billion in 1975.

Postal wage cost will constitute an even higher percentage of total operating expense in 1975 (84.9 percent than it did in 1968 (81.9 percent), despite a reduction of over 24,000 man-years in the postal work force.

Pieces of mail per man-year (productivity) will be up 18.9 percent, or an average of about 2.7 percent a year, for each year of the period. Most of this increase in productivity occurred during the stewardship of U.S. Postal Service, and especially in 1973, the year of the heaviest cutback in man-years which coincided with the last significant increase in pieces of mail, before mail volume began leveling off. As a result, however, mail service was poor in early 1973.

The total cost per piece of mail and the key first-class mail rate appear to be locked into a ritual leapfrog dance, with rates waiting briefly for costs to continue their relentless climb, and then surging upward in mighty bounds to surpass costs for seemingly briefer respites, only to have the cycle repeat itself.

The cost per piece of mail handled is influenced by five primary factors: the number of employees, how much they are paid, the mail volume they handle, the extent their productivity is helped by investment in mechanization and better facilities, and the quality of their management.

As to the number of postal employees, U.S. Postal Service management has learned from experience during the early months of 1973 that it is possible to reduce its work force to a dangerously low level, with adverse effects on the quality of mail service.

As to how much postal employees are paid, and whether their pay increases are fair to all involved, which they indisputably must be, that is for others to decide. The significance of this wage data, however, is that it explains why, despite a 19-percent increase in productivity per employee, the costs of operating the Postal System have increased 80 percent since 1968. The steep increase in costs and postal rates is uniquely a result of increased wages and benefits and not, as some have suggested, a blundering and inept management.

As to mail volume, postal management and postal labor are now realizing that the past rates of increase in mail volume are by no means inevitable or even probable for the future. Significant sections of the message transfer market such as correspondence, advertising, order, billing and payment mail—though subject to the postal monopoly—are nevertheless becoming economically ripe for wholly competitive nonmail alternatives. Additionally there is continuing and documented erosion of mail volume in those types of mail which are not subject to the postal monopoly. Suffice it to say that level, or reduced, mail volume in future years, coupled with other inflationary forces, will produce even higher costs per piece of mail for the surviving mail users whoever they may be. Future increases in mail volume must be fought for and won by the U.S. Postal Service, not taken for granted.

The new U.S. Postal Service has reason to be pleased with its increased productivity. However, we look for the day when wage increases and capital investment costs will be offset by increases in productivity. Until then abnormally high postal inflation will continue unabated. U.S. Postal Service will be risking over \$3 billion in capital investment commitments in 1974 and 1975 to help improve productivity. This is a risk which must be taken, but we cannot afford to have it fail.

The key to the complicated equation behind the cost per piece of mail lies in the motivation of postal management. A crash program of spending for mechanization alone will not solve the problem. The Postal Service needs all the skill it can muster to purchase the right kind of equipment, to employ it in the right places, and to help their employees to utilize it in the most efficient manner. Only then will postal management be able to keep under control their total cost per piece of mail.

Other aspects more difficult to quantify

Those who criticize the Postal Service, and we ourselves intend to criticize aspects of it, should first try to appreciate the condition that the Postal Service would be in today but for postal reorganization.

The old Post Office Department was clearly in a deteriorating condition, with antiquated equipment and facilities and a scarcity of capital for modernization; with management paralyzed by continual interference in day-to-day management from a host of sources, political and other: a labor-management relationship which existed in name only, with labor negotiating not with management, but rather with Congress; and with a Budget Bureau which regarded the Postal Service as

a poor cousin which got only what was left over after every other Government project got its share.

There is no question that the Postal Service is a better organization to work for today than was its predecessor. Not only is rank and file pay better, there are far greater career opportunities for advancement, there are better working conditions, there is better training and motivation, there are better safety procedures and there is an absence of political appointments. Postal management no longer has that long list of no-control items that Postmaster General O'Brien used to talk about; postal management today has the authority, the responsibility and the opportunity to get things done. We believe it takes time for these factors to bear on the bottom line of the Postal Service. Future annual reports, we hope, will show more impressive quantitative results.

It must be said also that the Postal Service is a better organization to work with today than was its predecessor. Not only is postal management now listening to its customers, there are more manifestations today than ever before of the U.S. Postal Service and its customers working together to create mutual savings in such workload sharing areas as presorting, materials handling, and payment procedures. Postal customers have even experienced the pleasure of agreeing with some of the philosophy of the U.S. Postal Service at the Postal Rate Commission. On more than one occasion the natural adversaries in those proceedings have found themselves jointly in pursuit of a common goal. Later on I'll give you an example of how the U.S. Postal Service has seemed more in tune with the public interest, with the needs of its customers, and with the previously expressed will of the Congress than has the staff of the Postal Rate Commission.

The Reader's Digest was not among the proponents or architects of the Postal Reform Act of 1970. The act did not come out the way we hoped it would. We did support certain features of reform, such as the end of restraints on management and the need for mechanization. We did not support the self-sufficiency concept. We have always felt that the monopoly given to the mail service is justified only by the national interest and that taxpayer support must be given to the national postal system. We urged that the U.S. Postal Service should set its rates subject to a congressional veto power. We did not expect the 20-percent overnight savings which the Kappel Commission had hoped for, because it takes time to create progress.

Nevertheless, we believe that many of the act's provisions have proven beneficial.

The Postal Service has learned they cannot solve problems simply by bringing in outsiders. We applaud the trend which seems to be currently emerging of promoting knowledgeable career postal employees from within to senior management ranks. We think Postmaster General Klassen has learned his job well and should stay on. We don't always agree with him, but we respect a man who has the courage to accept blame for such events as the upsetting of the balance between costs and service in the early months of 1973, and who then went ahead and fixed the problem.

Before anyone criticizes postal reform, he should pause to consider where we would have been without it. Having said that, however, I would like to discuss some major deficiencies of postal re-

organization which, unless remedied, will, I believe, doom the Postal Service to certain failure.

The break-even concept

The first defect of the new Postal Service is the so-called break-even concept. This concept was founded upon two fallacious assumptions about the Postal Service. The first fallacious assumption was that the Post Office could really function as an independent corporation rather than a "service-first" institution, which it always had been. The second fallacious assumption was that the Service exclusively benefited those customers who used it and paid postage; and, therefore, that these sole beneficiaries of this service should be those who paid the total cost of that service. In fact, postal service is a principal Government function performed for and benefiting everyone. Of course, it need not be that way; one could design a postal service, or several postal services, tailored to meet the business requirements of the customers who could afford to pay for the services they need. Such a postal service would, of course, be an abandonment of a governmental function which all Americans need and want, and which the Constitution itself directed by undertaken by Government, one of the few such functions mandated by the Constitution.

There is an enormous cost to operating a postal service such as ours, which extends service to all Americans, wherever they live, at a price which is truly nominal for the ordinary citizen. It is hard to overstate the value to the citizenry of having an agent of the Postal Service visit his home 6 days of every week just so that on one of those days that citizen may receive or send a letter that is important to him—a social security check once a month, a letter to or from a loved one maybe twice a month, but no one knows on just what day. I doubt that any private mail service could break even if it charged the same price for delivering a letter to the Aleutian Islands as it did to deliver a letter across the street. To apply a break-even concept to such a system is to deny the governmental character of the service, and to relegate it to the status of a mere business which would supply to those who can afford it a service that they want. The absurdity of such a posture can be readily seen if one imagines for a moment that we had a break-even fire department, whose services were available only to those who could afford to pay for the cost of putting out a fire should their property catch on fire. The costs of maintaining a fire department would be charged to the users of the system, and unless an individual determined that he could afford to subscribe to this service, he would simply have to permit his house to burn.

Public service costs to and the postal monopoly

This function of the Postal Service—its readiness to serve all the American people—has historically been allowed for by Congress through various money appropriations designed to supplement postal revenues and has gone by various names, most recently the "public service allowance." However, the Postal Reorganization Act contemplates an eventual elimination of even the meager public service allowance presently authorized of some \$920 million per year, which is an ever decreasing percentage of the costs of operating the Service—7½ percent of fiscal 1975 costs. Whereas, prior to reorganization the Congress appropriated an average of 18 percent of total costs from 1946 to 1970.

The Congress obligations to the Postal Service cannot be adequately measured without a consideration of its monopoly characteristics. Despite the best efforts, and the best of intentions, no organization as Goliath-like as the Postal Service can possibly operate efficiently and wisely and be fully responsive to the demands of the people when it is utterly insulated from the single factor which promotes efficiency and wise management in every other sector of our economy, namely, competition.

We believe the Congress will continue to appreciate that it cannot manage the postal system, but can only provide an oversight function, which, while helpful, is not the kind of independent scrutiny by skilled technicians which is required to make the Postal Service fully accountable; and by an appreciation that the Postal Rate Commission, however imperfectly it has been operating, can be made an instrument of limited usefulness in requiring a degree of accountability from the Postal Service as a substitute for the restraining influences normally provided by competition.

We do believe that by continuing the Postal Service as a monopoly the basic postal policy set forth in the Reorganization Act (sec. 101a) can be achieved. This committee wants, as is evident from the Postal Reorganization Act itself, and H.R. 15511, to maintain the monopoly and to pay the Government's—that is, the taxpayers'—fair share of operating this monopoly system.

The Congress has an obligation on behalf of the taxpayers to pay for the public service and monopoly cost of the Postal Service. That cost is incurred in behalf of all American citizens to make possible the kind of service that we have had traditionally and which the American people have made evident that they want to continue to have. It is, admittedly, not that easy to know with any great precision what that amount is or should be from time to time. H.R. 15511 attempts to resolve that problem by arbitrarily determining that an amount up to 20 percent of the current costs of operating the Service could be appropriated by the Congress as the fair share of all the taxpayers for the operation of this system. In my judgment, 20 percent of current postal costs is a much closer estimate of the fair share of the taxpayers than the current figure of 10 percent of 1972 costs, but it is again an arbitrary amount. Moreover, the way in which the bill is drafted would require that the Postal Service not only seek an annual appropriation of such an amount, but would require the Postal Service annually to seek authorization from the Congress for the requested amount, with no assurance that the Congress in any given year will find that 20 percent or even 10 percent is warranted. The Postal Service would never know from year to year what its fiscal posture would be and what the source of its funding would be. Moreover, it would subject the Congress to an annual scramble by every interest, including ourselves, to lobby for the largest possible amount.

It would appear that a principal objective of requiring an annual authorization would be to subject the Postal Service to much closer scrutiny by the appropriate congressional committees, and to give the Congress a much deeper involvement in postal expenditures. One can sympathize with the view of the Congress and the drafters of this legislation that it is unthinkable that they would turn over vast sums of money to the Postal Service to be expended in any way the Postal

Service chooses without any congressional involvement in that decisionmaking process.

A recommendation

It would seem to me preferable, however, for the Congress to make a legislative determination of the amount which they are authorizing for appropriation for this public service purpose, and to direct the purposes for which that money can be spent. The clearest example of a postal function which is an immediate benefit to every American, and which clearly cannot be justified solely as a business operation, is the delivery function of the Postal Service; that is, the delivery each day of mail and parcels to the home of every American in this country, and to many businesses in this country several times a day. The cost of this delivery function is perhaps the largest single cost of operating the Postal Service. The delivery of mail is one of the few remaining functions that must be performed with human hands and feet and hearts. In fiscal year 1975 the Postal Service estimates total delivery costs of \$2.5 billion. That amount represents approximately 20 percent of the estimated costs of operating the Postal Service for fiscal year 1975. We propose that the Congress legislate that the taxpayers—that is, the Treasury—will pay the annual costs of delivering mail from post offices to all Americans. Congress will thus have determined the purposes for which its appropriated moneys can be spent, and will have determined the amount of the appropriation that is authorized without resort to an arbitrary percentage figure. The Postal Service managers themselves should find no objection with such an approach because it would not interfere with their management prerogatives.

Accountability of the USPS

A second defect of the current postal structure, albeit an unintended one, is a lack of accountability. Whatever the evils fostered under the old U.S. Post Office Department, there was at least accountability in a very detailed way to the Congress and derivatively, therefore, to the American people. Of course, the Congress did retain oversight functions of the Postal Service, and this subcommittee and others have been vigorous in conducting investigations and hearings in performance of that oversight function.

Also, the act established a Board of Governors, intended to be comparable to a board of directors of a corporation, which would be another agency requiring an accounting from the managers of the Postal Service. And the Reorganization Act also established a Postal Rate Commission which, at a minimum, was to review the fairness and equity of the Postal Service's rate structure. How much more extensive the regulatory authority of the Postal Rate Commission is remains to be developed. Suffice it to say that, at present, the Postal Rate Commission is not performing a regulatory function in the same way that the Civil Aeronautics Board does over the airline industry or the Federal Communications Commission does over A.T. & T., meager as that regulatory function may be in those cases.

There is, for example, relatively little effort on the part of the Postal Rate Commission to examine the cost control mechanisms operating in the Postal Service to examine the budgetary function of the Postal Service as a cost control device, to scrutinize the effectiveness of labor-management bargaining, to weigh the effectiveness of

capital spending decisions, and just generally to look for fat in an operation which is one of the most gigantic enterprises ever conducted in history. In the past, the Congress itself performed this function, and never in modern times did it approve all of the Post Office money requests.

But as a practical fact, what is happening at the Postal Service is that management and labor, through the collective bargaining process, fix the wages and working conditions which will dictate what approximately 85 percent of the costs of the Postal Service will be. Naturally, labor, as one would expect, seeks to get the most that it possibly can at the bargaining table. Management, on the other hand, knows that whatever it gives at the bargaining table, it can recover in the form of price increases from the users. Then under the present mechanism, the bill for these increases is simply presented to the Postal Rate Commission, and the Postal Rate Commission has no discretion to deny those increases to the Postal Service, but merely to determine who among the various users should bear the burden of those increases. Thanks to their monopoly, the Postal Service does not have to worry about losing their business to the competitor across the street because they have priced themselves out of the market.

Postal ratemaking

And this brings us to the Postal Rate Commission and its performance to date. We are a participant in the two proceedings ongoing at the Postal Rate Commission, so I am not as free as I would like to be to express my opinions of that body and its performance to date. However, I can say that I am alarmed at the tendencies I have noted in the decision it has issued and in the conduct of its proceeding so far. There is a pronounced hostility on the part of the Commission, and most particularly, on the part of its staff, to many large customers of the USPS, even where they are users of first-class mail. The so-called Public Counsel of that Commission, the office which Congress designated in the Postal Reorganization Act to represent the public at large, has taken a particularly hostile attitude to large mail users.

In its first decision, the Rate Commission went out of its way to ignore the very clear legislative history established by the House Post Office and Civil Service Committee over the types of costing methodologies which the Congress contemplated would be used in fixing postal rates. A clear predicate for the ratemaking provisions of the Postal Reorganization Act was the adoption by the Postal Service of a new incremental costing methodology, which took the place, after constant congressional criticism, of the old cost-ascertainment system utilized for too many years by the Post Office Department. Everyone—the Postal Service, the mail users, and the Congress—knew that the cost-ascertainment system was merely an accounting device for distributing all postal costs across all classes of mail, but that those cost distributions were meaningless for purposes of understanding what it actually cost to provide service for a particular class or subclass of mail. That's why the Congress itself in the 1958 Postal Policy Act decreed that first-class mail must pay substantially in excess of what the cost-ascertainment system showed their costs to be, and that, conversely, other classes of mail should pay less. This was a candid recognition by the Congress that in fact the cost-ascertainment system did not show the true costs of handling a particular class of mail.

In response to repeated criticisms, the Postal Service developed a new costing system under which approximately 50 percent of the costs could be assigned on a causally related basis to particular classes of mail, and that the other 50 percent of the costs were, if you like, institutional, and would have to be apportioned among the various classes of mail on a noncausally related or judgmental basis. It was in the light of the adoption of this new costing methodology that Congress determined that each and every class of mail would have to pay its costs directly and indirectly attributable. When Congress wrote that statute, they clearly had in mind that the Postal Service had said that 50 percent of all postal costs were directly and indirectly attributable to the various classes of mail. It was never Congress' intention that each and every class of mail would have to pay, as a minimum, its direct and indirect attributable costs if, say, 75 percent of all costs of the Postal Service were attributable to it. Despite that clear record, the Postal Rate Commission has managed to read that legislative history out of existence and to pronounce that you, the Congress, had absolutely no costing system in mind when you passed the act.

The Rate Commission now seems to be engaged in an effort, particularly on the part of the office which represents the public, to devise any kind of a costing methodology which will permit first-class mail to pay less postage and the other classes of mail, the classes used primarily by businesses dependent on the system, to pay substantially more. The Commission seems to have approached this task as though that were the ultimate objective; there is a clear attitude of impatience by the Postal Rate Commission with any efforts of participants which stand in the way of the achievement of that goal.

From my limited understanding of what the Postal Rate Commission is about, it is on a disaster course; it is bent upon forcing the Postal Service to adopt costing techniques which will have ruinous consequences. The most ludicrous example which comes to mind is a proposal by the staff of the Postal Rate Commission that the first-class postage should be 9 cents rather than the 10 cents per piece proposed by the USPS, and that bulk third-class postage should be 7.6 cents per piece instead of the 6.3 cents per piece proposed by the USPS. Now, one does not have to be an expert, or have any long experience in postal matters to understand that if the difference in price between first-class mail and bulk third-class mail is only 1.4 cents, and the mailer must perform onerous and expensive preparation—sorting and sacking requirements—in order to obtain the bulk third-class rates, and suffer with the deferred, uncertain service accorded to that class, and the denial of forwarding service, then no one in his right mind would use bulk third-class mail. Even now with first class costing 3.7 cents more than third, this year the Reader's Digest is sending 35 million pieces by first-class mail rather than third class because we believe the better service is worth that 3.7 cents to use in those instances.

It just so happens that a very large industry in this country is dependent for its very existence upon a reasonably priced bulk third class mail service. Substantial segments of this mailing industry cannot afford to pay first-class postage. But when one adds the preparation costs necessary to meet bulk third-class mailing requirements to the

rates proposed by the staff of the Rate Commission, the costs of making a bulk third-class mailing would be roughly approximate to the cost of a first-class mailing.

Aside from the calamitous economic consequences to the mail order industry from such a proposal, the results to the Postal Service itself would be disastrous. There would be an enormous loss in the volume of third-class mail, and therefore in the overall volume of mail in the Postal Service. And it would be a loss of the kind of mail which permits a steady work flow in post offices. The increases that the Postal Rate Commission staff has in mind for bulk third-class mail are no different than the staggering increases that they have in mind for other special classes of mail.

The Reader's Digest is in perhaps a unique position. It uses more first class mail than any other class, but it also uses all other classes of mail, second, third, and fourth class. The Reader's Digest has no interest in seeing first class rates lowered to the disadvantage of other classes; nor does it have any interest in seeing any one class preferred over another. We believe that there is an optimal pricing structure—a most efficient set of rates—which will produce the most efficiently operating Postal Service. We believe that it is this objective which the Postal Rate Commission should be attempting to approach, rather than seeking to punish special classes of large business mail users, out of some misguided suspicion that they have for too long a time not paid their fair share, and have been taking a free ride on the backs of the small first class mailer. This kind of prejudice simply has no place in what is supposed to be the quasi-judicial atmosphere of the Postal Rate Commission.

As it stands now, we have a Postal Rate Commission which has decided that the Congress told it that it is to require each class and subclass and service to pay all of the costs which are assigned to that class, plus, in the case of nonpreferential users, some share of those costs that are not otherwise assigned; that the Congress has, furthermore, told the Postal Rate Commission it can decide for itself on how to assign those costs, and use any system or methodology which, for whatever reasons, it deems to be the best, without regard to whether those assignments are or are not based on any causal relationship; and that, for all intents and purposes, Congress intended to prefer no class or subclass of mail or service as against any other class or subclass of mail or service; and that the various rate criteria enumerated in the Postal Reorganization Act are without meaning except in that they may describe some kind of elasticity of demand criteria. The act listed eight criteria and the Rate Commission has disregarded every one but elasticity and cost.

Stronger guidelines needed for the Postal Rate Commission

It seems to me that we must have a Postal Rate Commission operating under very specific dictates and criteria established by the Congress, such as the following:

1. The Postal Rate Commission is to assign postal costs to those classes of mail which cause directly the incurrence of those costs, and that the test used to determine whether or not that cost was caused by a particular class or service is whether or not that cost could have

been avoided, in whole or in part, if the service were not performed at all in the following 2 years.

2. That each class of mail or service will pay, as a minimum, those costs which the Commission determines were caused directly by the furnishing of that class of mail or service.

3. That all costs of the Postal Service which cannot be casually assigned to a particular class or service shall be apportioned among the various classes or services in accordance with all the following criteria which are somewhat judgmental:

a. The first criteria shall be the ability of that class of users to pay the additional allocations of cost;

b. The Commission shall take into account the fact that the Congress has historically regarded certain kinds of mail matter as more valuable to the country than other kinds of mail matter: specifically, that magazines, newspapers, books, and records are deemed to be a valuable resource to the country, and, therefore, the educational, informational and cultural values which they disseminate so widely should be promoted by having a lower postal rate than they otherwise might have;

c. The Postal Rate Commission shall consider in apportioning these other costs whether, if there were no postal monopoly, a given class or subclass of mail could be delivered by private enterprise at a lower price than that charged by the Postal Service. If so, the Postal Rate Commission could make a lesser allocation of these costs to that class or subclass in recognition of its captivity to the monopoly;

d. The cost allocations shall give due weight, beyond the mere cost inurrence reflected therein, to the level of service provided to that class or subclass, that is, preferred versus deferred; and

e. The Postal Rate Commission shall give due regard to the percentage increases that would be brought about in a particular class or subclass rate because of the allocations of these costs, striving to avoid unduly large percentage increases in rates for that class or subclass.

Now these criteria are judgmental, but they would be the expression of congressional judgment, and therefore would relieve the Postal Rate Commission of making policy judgments they presently feel they are not qualified themselves to make. They are, I submit, merely common sense and fair approaches to distributing those costs which are institutional and which are incurred by the very nature of having a postal system such as we have.

For example, when a class of mail is given priority service, there is probably a directly traceable cost that can be measured to the provision of that service, and this cost itself will therefore be reflected in the assignable costs. However, in terms of intrinsic values of the service, it also follows that, because a particular class is getting better service than another class, this factor should also weigh in the allocations of the institutional costs of that class.

Likewise, if an equal allocation of institutional costs to two classes of mail would produce in the one case a 15-percent increase in rates, but in the other case, would produce a 100-percent increase in rates, it is merely common sense to try to temporize the drastic effect on the latter class by allocating somewhat less of the institutional costs to that class and slightly more to the other class. Eventually, those classes of mail which had historically low rates will, if they should pay more,

pay more gradually without having to abruptly go out of business in the process.

What seems to be missing at the Postal Rate Commission is a sense that they are dealing in life and death terms for thousands and thousands of businesses in this country; and not merely engaging in an academic exercise where the Commission chooses among competing abstruse and theoretical economic approaches to costing. That Commission needs to understand that it has in its hands, through its rate setting powers, the decision as to whether or not these businesses will survive. If the Commission cannot learn this, then we would have to consider proposing its abolition. Whatever the defects in the congressional ratemaking process, the members did bring a high degree of realism to the subject.

We are aware that the Postal Service would prefer to see the Postal Rate Commission replaced with a purely advisory body housed within the Postal Service. That suggestion is precisely the same one that was originally offered in the administration's version of postal reorganization, and which the Congress rejected, at the urgings, I might add, of many of the mail users, including ourselves. Despite the developments at the Rate Commission, we are not yet ready to abandon this approach to ratemaking, even though we believe, at least for now, that the Postal Service has a much more sensible approach as to how rates should be created than the Rate Commission does. But as a matter of principle, we believe it is important that the Postal Service has to be responsive to independent, institutionalized forces, outside of the Postal Service.

Other considerations

We are not convinced that the proposal in H.R. 15511, which would eliminate the power of the Board of Governors to reject a decision of the Rate Commission, is advisable. As we understand the Postal Reorganization Act, the authority of the Board of Governors to disapprove or modify a decision of the Postal Rate Commission is very narrowly circumscribed; and there is no evidence to suggest that the Board of Governors has or will attempt to abuse the limited power they have been granted. Until they do, we do not believe that any change is required.

The provision in H.R. 15511, which would extend from 90 to 180 days the time in which the Rate Commission must act before temporary rates can be placed into effect, is a sensible proposal. So far, the rates in effect most of the time have been temporary rates, which we are forced to pay even though they have been subjected to no Commission scrutiny. The Postal Reorganization Act contemplated that some kind of meaningful Rate Commission consideration could be accorded to rate requests within 90 days. That simply is not possible, and there is no point in continuing such a system. We do not believe that in rate matters the Commission has been dilatory; we believe they have acted with expedition. In the future, it might very well be possible for the Rate Commission to issue a rate decision, if they were granted a 180-day period in which to do so.

The further provision in the proposed bill which would limit temporary rate increases to 10 percent, we believe, would be unduly restrictive of the opportunities of the Postal Service to raise the reve-

nues it needs to operate. On the other hand, we do not believe it would be unreasonable to limit temporary rate increases to an amount which is not more than 10 percent per annum larger than the permanent rate for each year that that rate has been in effect. Thus, if the permanent rate had been in effect for 3 years, a rate increase up to 30 percent on a temporary basis would be allowable.

The provision in the bill that requires Senate confirmation of appointees of the Postal Rate Commission, we think, is commendable. The short history of the Rate Commission to date would bear that out.

And we most certainly approve of the bill's provision which would allow the Postal Service to pursue its rights in court without the prior consent of the Attorney General.

In conclusion, it is our judgment that, despite the obvious need for legislation to correct mistakes that were made in the Postal Reorganization Act, principally to put an end to the myth that the Postal Service can and should break even, we should all recognize that there is not going to be any "quick-fix," legislative or otherwise, to the problems of the Postal Service. There is no new legislation which this Congress can pass which will permit it to forget about the Postal Service and let it run happily along on its course for the next decade. The Postal Service will require constant watching by an alert Congress, most specifically this committee; by a vigilant Rate Commission and staff performing a genuine regulatory function; and by mail users; and not least, by a Board of Governors which will give real time and attention to their jobs of acting as a responsible board of directors of the Postal Service accountable to the Congress and to the American people.

But the Postal Service immediately needs legislative help to provide additional funding so that the Government can pay, on behalf of the American people, their fair share of the costs that are generated by providing a system for all of the American people; and legislation must be enacted to give real direction and purpose to the Postal Rate Commission before that Commission can do irreparable damage to the Postal Service and to the mail using industries that are dependent upon it and captive to it because of the postal monopoly laws. **Unless this Congress acts within the year on at least these two matters, there will be a genuine catastrophe in the offing that will make insignificant any problems encountered in the old U.S. Post Office Department.**

[The exhibits referred to follow:]

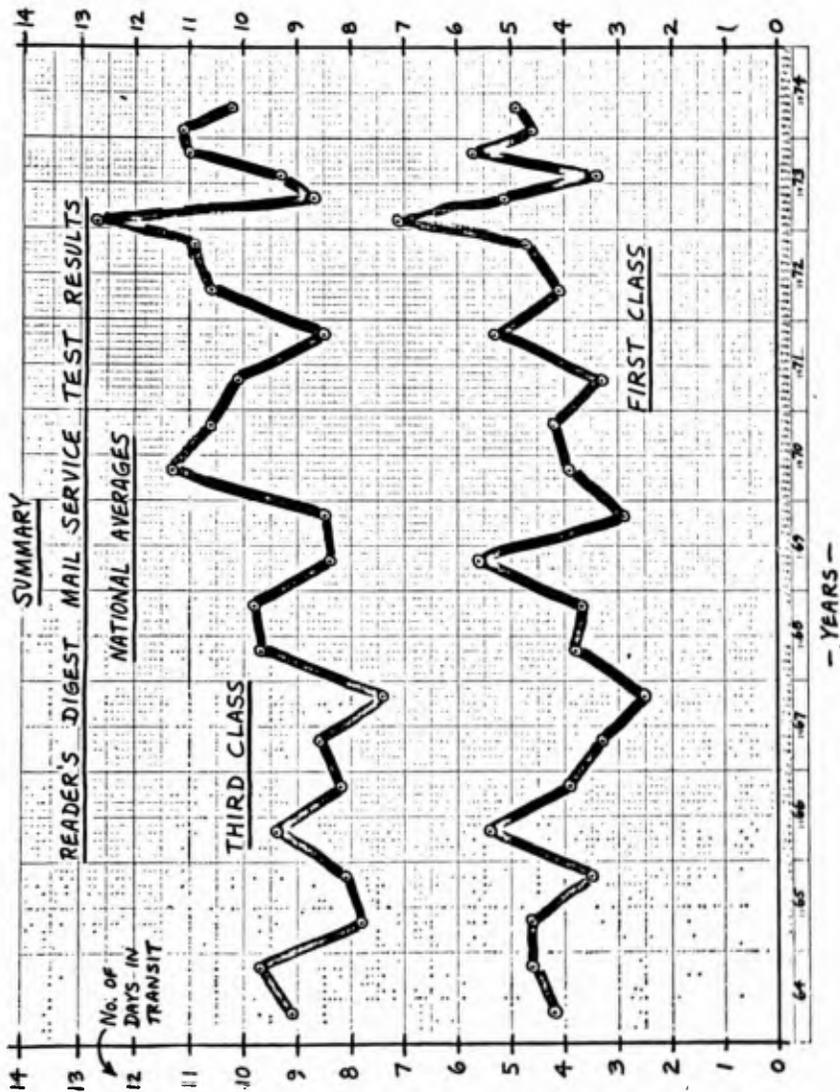


EXHIBIT A

SUMMARY
READER'S DIGEST MAIL SERVICE TEST RESULTS
 (National Averages)

	<u>DAYS IN TRANSIT</u> 1st Class			<u>DAYS IN TRANSIT</u> 3rd Class				
	<u>January</u>	<u>April</u>	<u>July</u>	<u>October</u>	<u>January</u>	<u>April</u>	<u>July</u>	<u>October</u>
1964	-	4.2	-	4.6	-	9.1	-	9.7
1965	-	4.6	-	3.5	-	7.8	-	8.1
1966	-	5.4	-	3.9	-	9.4	-	8.2
1967	-	3.3	-	2.5	-	8.6	-	7.4
1968	-	3.8	-	3.7	-	9.7	-	9.8
1969	-	5.6	-	2.9	-	8.4	-	8.5
1970	-	3.9	-	4.2	-	11.3	-	10.6
1971	-	3.3	-	5.3	-	10.1	-	8.5
1972	-	4.1	-	4.7	-	10.6	-	10.9
1973	7.1	5.1	3.4	5.7	12.7	8.7	9.3	11.0
1974	4.6	4.9			11.1	10.2		

During the period from April 1964 through October 1972

these tests were performed twice a year, in April and October.

Beginning in January 1973 the tests have been performed four times a year.

SELECTED POSTAL DATA
Fiscal Years 1968-1975

	U.S. POST OFFICE DEPARTMENT				U.S. POSTAL SERVICE			
	1968	1969	1970	1971	1972	1973	1974(est.)	1975(est.)
MAN YEARS (1)	696,964	713,979	725,913	723,581	707,674	684,192	685,423	672,737
PIECES OF MAIL (2)	79,516,731	82,004,501	84,881,833	86,983,000	87,156,084	89,683,439	90,495,600	91,246,700
- per Man Year (3)	114,091	114,856	116,931	120,212	123,158	131,079	132,029	135,635
*SALARIES and BENEFITS(4)	\$5,357,329	\$5,901,340	\$6,524,819	\$7,467,036	\$8,082,547	\$8,342,779	\$9,393,061	\$10,057,104
- per Man Year	\$7,687	\$8,265	\$8,988	\$10,320	\$11,421	\$12,194	\$13,704	\$14,950
- as % of Total Operating Expense(8)	81.9%	82.3%	82.9%	83.4%	84.9%	84.9%	84.3%	84.9%
*CAPITAL INVESTMENT COMMITMENTS (5)	\$225,700	\$235,500	\$248,300	\$235,400	\$725,200	\$807,900	\$1,443,000	\$1,663,300
- as % of Total Operating Expense (8)	3.4%	3.3%	3.2%	2.6%	7.6%	8.2%	13.0%	14.0%
*TOTAL OPERATING EXPENSES (6)	\$6,543,920	\$7,168,489	\$7,867,269	\$8,955,264	\$9,522,378	\$9,816,306	\$11,139,800	\$11,844,300
- per Piece of Mail (7)	8.23¢	8.74¢	9.27¢	10.30¢	10.93¢	10.95¢	12.31¢	12.98¢
PRICE FIRST CLASS STAMP (6/30)	6¢	6¢	6¢	8¢	8¢	8¢	10¢	10¢
*Add 000								

SOURCES:

- (1) Annual Reports USPS FY 1972 (pg 2) and FY 1973 (pg 1); Richard F. Gould letter to Kent Rhodes 3-25-74
- (2) " " " " (pg37) " " " " (pg45); Orenstein testimony, USPS, R74-1, 9-25-73, Exhibits 3 and 5
- (3) " " " " (pg 2) " " " " (pg 1); 1974 and 1975 calculated here.
- (4) " " " " (pg35) " " " " (pg43); USPS answer to DMMA interrogatory R74-1, 4-11-74, pg 28
- (5) " " " " 1973 (pgs 26-27); USPS answer to DMMA interrogatory R74-1, 4-11-74, pg 6 (1972 - 1975)
- (6) " " " " 1972 (pg35) and FY 1973 (pg 43); Orenstein testimony, USPS, R74-1, 9-25-73, Exhibits 3 and 5
- (7) " " " " (pg 2) " " " " (pg 1); 1974 and 1975 calculated here.
- (8) Calculated here

INDICES OF SELECTED POSTAL DATA
Fiscal 1968 = 100

	<u>U.S. POST OFFICE DEPARTMENT</u>					<u>U.S. POSTAL SERVICE</u>			
	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974 (est.)</u>	<u>1975 (est.)</u>	
MAN YEARS	100	102.4	104.2	103.8	101.5	98.2	98.3	96.5	
PIECES OF MAIL	100	103.1	106.7	109.4	109.6	112.8	113.8	114.8	
- per Man Year	100	100.7	102.5	105.4	107.9	114.9	115.7	118.9	
SALARIES AND BENEFITS	100	110.2	121.8	139.4	150.9	155.7	175.3	187.7	
- per Man Year	100	107.5	116.9	134.3	148.6	158.6	178.3	194.5	
CAPITAL INVESTMENT									
COMMITMENTS	100	104.3	110.0	104.3	321.3	358.0	639.3	737.0	
TOTAL OPERATING EXPENSES	100	109.5	120.2	136.8	145.5	150.0	170.2	181.0	
- per Piece of Mail	100	106.2	112.6	125.2	132.8	133.0	149.6	157.7	
PRICE FIRST CLASS STAMP	100	100	100	133.3	133.3	133.3	166.7	166.7	

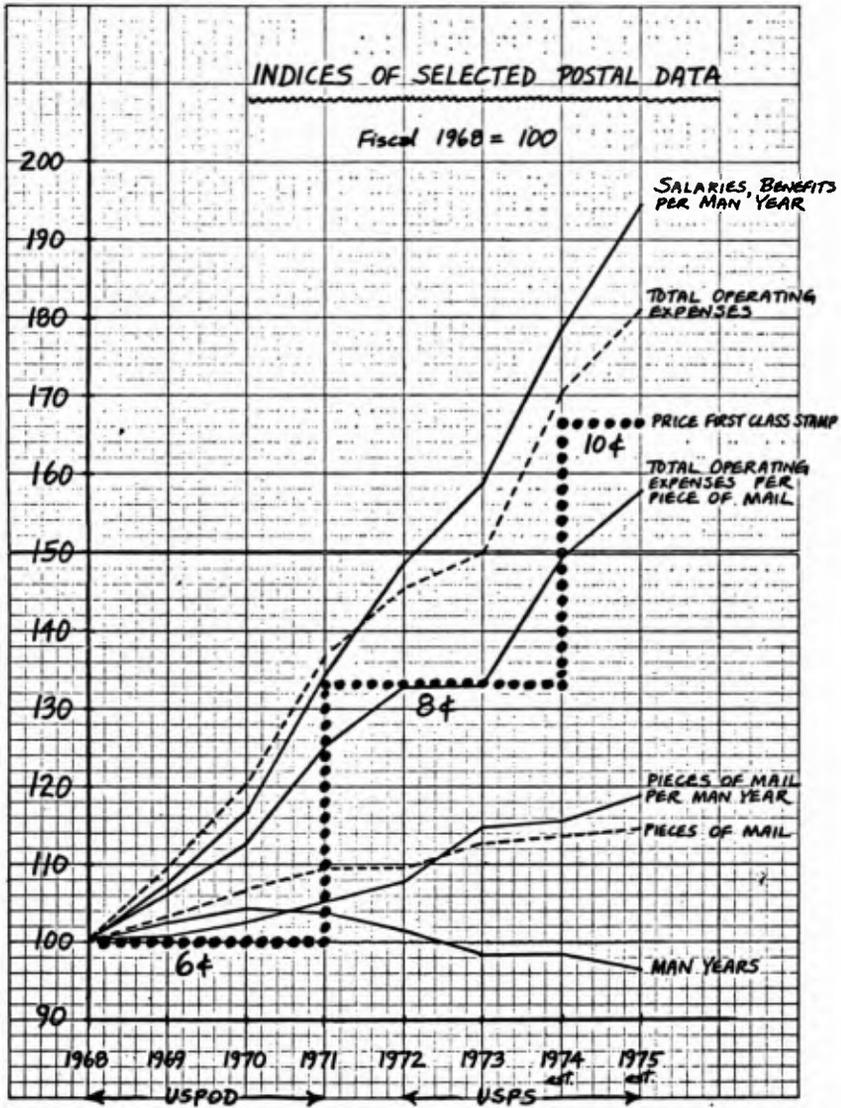


EXHIBIT C

SALARIES/WAGES AND BENEFITS PER MAN YEAR
USPS Compared to UPS

1. U.S. POSTAL SERVICE
(Salaries & Benefits per
Man Year)

	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u> (est.)	<u>1975</u> (est.)
	\$7,687	\$8,265	\$8,988	\$10,320	\$11,421	\$12,194	\$13,704	\$14,950
1968 = 100	100	107.5	116.9	134.3	148.6	158.6	178.3	194.5

2. UNITED PARCEL SERVICE
(Wages and Employee Benefits
per Man Year)

	\$7,936	\$8,515	\$9,322	\$ 9,869	\$11,161	\$11,938	-	-
1968 = 100	100	107.3	117.5	124.4	140.6	150.4	-	-

Sources:

- (1) Exhibit B (USPS Salaries and Benefits per Man Year), Fiscal Years.
- (2) USPS library (Excluding profit sharing and stock options), Calendar Years.

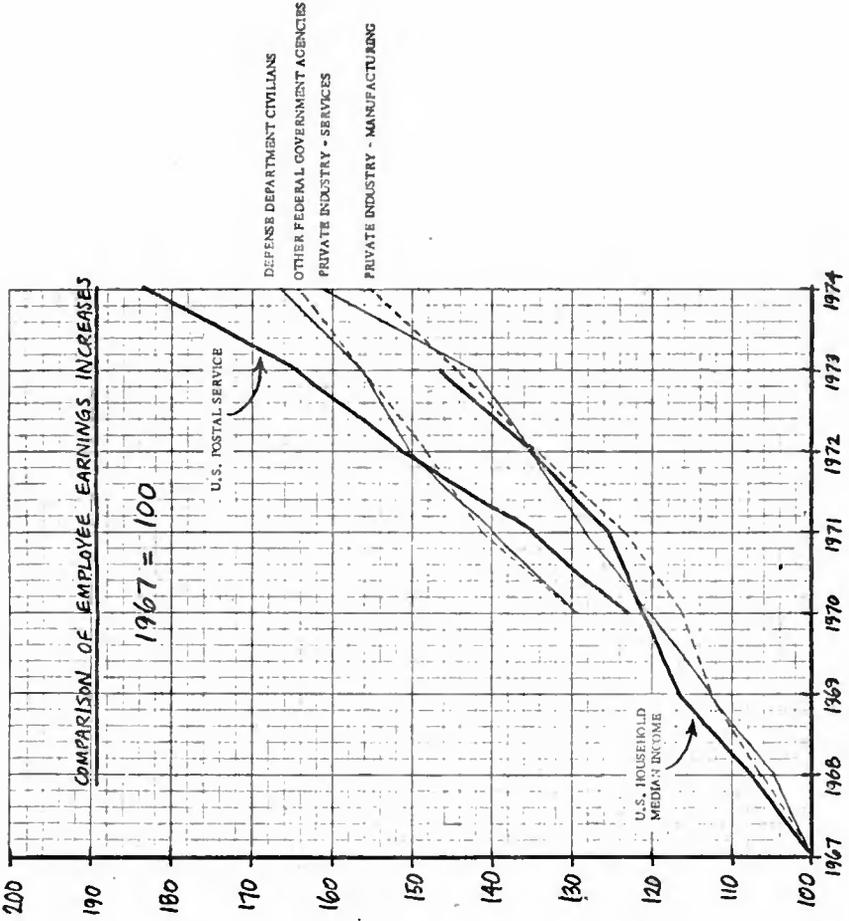


EXHIBIT E

COMPARISON OF EMPLOYEE EARNINGS' INCREASES
(1967 = 100)

	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
(1) U.S. POSTAL SERVICE	100	N.A.	N.A.	123.2	135.0	151.3	164.5	183.6
(1) DEPARTMENT OF DEFENSE	100	N.A.	N.A.	129.4	139.9	150.6	156.1	166.5
(1) OTHER FEDERAL GOVERNMENT EXECUTIVE AGENCIES	100	N.A.	N.A.	129.5	141.4	148.2	156.1	164.1
(2) PRIVATE SERVICES INDUSTRIES	100	104.9	112.7	120.3	128.1	134.9	142.5	161.0
(2) PRIVATE MANUFACTURING INDUSTRIES	100	106.6	112.7	116.4	123.6	134.6	144.2	155.4
(3) MEDIAN INCOME U.S. HOUSEHOLDS	100	107.9	116.8	121.6	125.7	135.1	146.4	N.A.

EXHIBIT E-1 DATA

Sources:

- (1) U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings" Table C-3, Average Weekly Earnings in June of each year; 1974 figures are for May; 1967 = 100
- (2) U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings" Table C-5, Gross Weekly Earnings; 1974 figures are for August. 1967 = 100. Statistical Abstract of the U.S. 1973, pg. 241
- (3) U.S. Department of Commerce, Bureau of the Census, P-60 Series, Median Annual Income, U.S. Households. 1967 = 100

Mr. HANLEY. I thank you very much, Mr. Rhodes, and, as I anticipated, your testimony is excellent and we do have a number of questions.

I am going to ask, if you would be good enough to accommodate us for just a couple of minutes and allow me the opportunity to recognize a Member who has to leave to go to the floor very shortly. I'm going to ask you if you will yield prior to questioning to Hon. Lawrence Coughlin.

Mr. RHODES. Surely.

Mr. HANLEY. Thank you very much.

**STATEMENT OF HON. LAWRENCE COUGHLIN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. COUGHLIN. Thank you very much, Mr. Chairman.

I have submitted copies of my testimony and I would ask that it be included in its entirety in the record, and I might just very, very briefly summarize it.

Mr. HANLEY. Without objection, so ordered.

Mr. COUGHLIN. Mr. Chairman, the Postal Reorganization Act of 1970 provides that the Postal Service "shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities." While this mandate is clear, in my judgment the failure to fulfill the mandate has been equally clear.

In my testimony I have cited a number of cases about which constituents have written to me involving lost or delayed mail, poor postal service and, in particular, the nonresponsiveness of the Postal Service to the complaints of these constituents.

I might cite one classic case that actually happened in my office in which some important materials was mailed first-class, certified mail to Jamaica, Long Island, New York State. New York State, as the chairman well knows, is one of the United States and when the material was not delivered it was finally tracked down. The package, clearly addressed to Jamaica, Long Island, New York State, with the proper ZIP code and proper postage, had in fact arrived in Jamaica, British West Indies.

I agree with the proposals that have been made by the chairman and feel that the requirement of the Postal Service to attain self-sufficiency by 1984 will certainly lead us further down the road to less service, more delays, and higher rates.

Much of the streamlining that has been done is certainly important, but what is needed is a clear directive from Congress to the Postal Service administrators that cost saving and self-sufficiency are goals which come second to prompt, efficient, and courteous service.

I also strongly endorse the specific standards proposed by Congressman Elwood Hillis in H.R. 5051 which include next-day delivery of mail deposited for delivery within a city, 3-day delivery of mail deposited for delivery within the United States, carrier service on a 6-day-a-week basis, second-attempt delivery of parcel post, and multiple delivery and collection service.

In addition, I find that a recurring problem in the Postal Service is overemphasis on management and too little emphasis on the consumer's viewpoint. I feel that a separate, adequately effected division of the

Postal Service specifically designed to represent consumer interests would be a great improvement.

Finally, I am concerned about the allegations of squandering of postal funds by the Postmaster General. I would urge a complete investigation of the charges against Mr. Klassen and certainly on the basis of the record that I have seen so far, I believe the public interest might best be served by his resignation.

Thank you very much, Mr. Chairman. I appreciate the chance to be here.

Mr. HANLEY. Larry, on behalf of the committee, we, too, appreciate the very keen interest that you have evidenced in this subject matter and I know that you, of course, joined up with me relating your observations a number of times, so we are deeply appreciative for your interest.

Personally, I will make it a point to read your testimony in its entirety. I have no questions. Mr. Ford?

Mr. FORD. Thank you, Mr. Chairman. I have no questions.

I had a chance to read quickly through our colleague's statement and I think that he has very concisely stated in a short few pages what we have been hearing from a good many of our colleagues for some time and I thank you for putting this in the record.

Mr. COUGHLIN. I thank my colleague from Michigan. I thank you, Mr. Chairman.

Mr. HANLEY. Thank you very much, Larry.

[The prepared statement which was submitted by Congressman Coughlin follows:]

PREPARED STATEMENT OF HON. LAWRENCE COUGHLIN

Good morning, Mr. Chairman. I am pleased to participate in the Postal Service Subcommittee's hearings today on proposed amendments to the Postal Reorganization Act of 1970. I appreciate the opportunity to convey to you the views of many of my constituents concerning the decline in postal service and to make some recommendations aimed at improving it.

The Postal Reorganization Act of 1970 provides that the Postal Service "shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities." While this mandate is clear, the failure to fulfill the mandate has been equally clear judging from the volume of complaints which I have received from constituents concerning mail service. For the most part, these focus on repeated instances of delayed delivery, lost mail, arbitrary postal districting, excessive red tape, and indifference to citizen complaints and problems. This situation is most disturbing to me and I would like to cite a few examples.

In the area of lost or undelivered mail, two cases in particular stand out. The first involves a constituent in my district who complained of several letters which she knew had been sent to her from various parts of the country but which she had never received. My office forwarded her complaint to the Postal Service and received a reply which states that "Without having an opportunity to examine envelopes which were delayed en route, it is not possible to determine the cause of the delays . . ." This non-response is preposterous under the circumstances. The problem is not one of mail delays but of lost mail which the Postal Service says it needs to examine in order to resolve my constituent's complaint. "Catch-22" arguments of this sort strongly indicate that citizen grievances are not taken seriously by postal officials and do nothing to endear the Postal Service to the public. I might add that two months after my constituent first contacted me about the lost mail, she had still not received it.

Another case is that of a man who wrote me concerning a registered item that had been lost in the mail. It had apparently arrived at his local Post Office; he had filled out a delivery slip so that it could be delivered to a neighbor and returned the slip to the Post Office. The mail never arrived and when he in-

quired about it, he was told that it did not exist. My office contacted postal officials and received a familiar type of response discussing general mailing patterns and conjecturing as to what had happened but without producing the mail in question.

While poor mail service is annoying and inconvenient for most citizens, it can have serious consequences for some. One man wrote me that his rent check was delivered to the wrong address, causing his landlord to evict him for late payment. The problem hit close to home when a constituent sent me a letter requesting four passes dated February 15 which did not arrive in my office until April 10. It was then too late for me to be of any assistance. Late or non-delivery of mail can mean serious financial loss for businesses which rely on the mails for orders and billing.

Inefficiency in the Postal Service is a persistent theme in many complaints that come to my attention. Faulty service and poor organization result in additional cost to both the Postal Service and the public. One constituent noted that the mail in her area is delivered by car although she lives close enough to the Post Office that she believes the area could be served more easily on foot. Her husband and sons have worked for the Postal Service, and she also observed firsthand that there were a disproportionate number of supervisors for the workers employed in each post office.

Needless expense was also evidenced in the complaint of a constituent to whom a package had been sent. Although properly addressed, the package was returned to the sender across the country. The sender remailed the package which finally reached its destination a month and a half after the original date of mailing, at an additional cost of \$1.30 to the sender. This delay was costly for both the sender and the Postal Service.

I can attest to instances of delay and inefficiency involving my own mails with a most incredible incident last Spring. Some important material was mailed by first class, certified mail to Jamaica, Long Island, New York State. That's one of the United States. When the package did not arrive after a few days my office began a check to determine what happened and asked postal authorities to investigate. Ten days later, the package arrived at its destination in Jamaica, Long Island. A few days after the delayed arrival I was told by postal authorities that the package, clearly addressed to Jamaica, Long Island, New York, with the proper zip code, had been sent out of the country to Jamaica in the British West Indies.

Arbitrary and irrational districting appear to be causes of serious hardship in some cases. The Belmont Hills Civic Association in my district wrote concerning this suburban Philadelphia community which has been assigned a Philadelphia City zip code. As a result, the residents of Belmont Hills are subjected to unending inconvenience and inequity. They are forced to pay higher urban auto insurance rates. The City government each year erroneously sends Philadelphia school tax bills to some Belmont Hills residents. In applying for certain jobs, they are referred to Philadelphia rather than suburban offices. Stores and services deliver to Belmont Hills out of their downtown stores rather than closer suburban branches. Admission to suburban Montgomery County recreational facilities which requires county residency is frequently denied residents of Belmont Hills although they are county residents. Confusion and loss of business also results from the fact that Belmont Hills residents are thought to be Philadelphia residents because of their zip code although their phone numbers are not listed in the City directory.

In response to my inquiries on behalf of Belmont Hills, the Postal Service replied that "it simply is not economically or operationally feasible to change delivery boundaries to provide local identity for the purpose of Revenue Sharing and Sales Tax revenue distribution." The Belmont Hills group responded with understandable annoyance that this answer was unsatisfactory and that they had not raised the issue of revenue sharing. However, since the Postal Service had, they pointed out that Belmont Hills residents were being used to increase the amount of revenue sharing funds going to Philadelphia rather than to Montgomery County where they live. Some time later the Postal Service added insult to injury by misplacing its correspondence with the Belmont Hills Civic Association. I forwarded another copy of its most recent letter to me on this situation to the Postal Service and received the stock reply that a change of boundaries "would result in exorbitant costs and less efficient service." Postal officials failed to explain why this is the case nor did they even attempt to address the questions of equity and efficiency which my constituents had repeatedly brought to their

attention. Despite my ongoing efforts to find a solution to this problem, it remains unresolved as of this date.

Aside from the questions of organizational sluggishness and operational breakdown which seem to pervade the Postal Service, public frustration and anger with the Postal Service are greatly aggravated by evasive replies to inquiries and postal double-talk. If mistakes cannot be avoided, then a conscientious effort should at least be made to correct them. However, the Postal Service seems bent on dealing with public dissatisfaction by disavowing its deficiencies, blaming the mail user, and, as a final resort, sidestepping persistent complaints altogether. No government agency should be permitted to act this way.

Mr. Chairman, these examples of inefficiency and unresponsiveness on the part of the Postal Service provide only a glimpse of the deep dissatisfaction with mail service which my constituents increasingly express to me. I have chosen these examples because they are indicative of what appears to me a broad pattern of Postal Service indifference to the American public it is designed to serve which, I believe, has now reached an intolerable level.

While I have been seriously disillusioned and disappointed with the performance of the Postal Service since its creation three years ago, I am not prepared at this point to sound the death knell for the Postal Service as an entity by recommending that the reforms achieved as a result of the Postal Reorganization Act should be abandoned and postal operations returned to full congressional control at this time. If, in the future, it should become apparent that the interests of the American public would be best served by reasserting direct congressional jurisdiction over postal operations, I shall certainly support this move, but I am frankly not convinced at this time.

In addition to the expectation gap which was created by predictions of vastly improved postal service which accompanied creation of the independent Postal Service, the principal problem with postal operations today is one of misplaced emphasis which pervades the policy decisions and actions of its administrators. Throughout the first three years of operation, emphasis has been placed squarely on cost-saving measures—curtailed service, a freeze on hiring, higher postal rates—all of which have had the cumulative effect of causing substantial deterioration of postal service to the American public. The interests of mail users have been clearly given a low priority within the Postal Service.

It should be evident by now that the requirement that the Postal Service attain self-sufficiency and essentially break even by 1984 will lead us further down this road with less service, more delays, and higher rates. I submit that Congress must not sit idly by and allow this deterioration to continue. As creators of the Postal Service with ultimate responsibility for its performance, we have an obligation to the American people to take corrective action in order to ensure that their need for fast, efficient mail service is met.

One direction we can and should move is to change the present emphasis on cost efficiency to one which is weighted more toward the public good. It is fine for a business to implement cost-cutting measures by raising prices, cutting personnel, or offering a product of poorer quality. If customers don't like it, they can go to competitors. But the Postal Service is a monopoly and should not be treated either by Congress or by its own cost accountants as a standard business enterprise which should be made to stand on its own at all costs. There is really no alternative for the American public to switch to when mail service gets too bad, so the usual incentives for better service which competition provides are absent. This is not to say that the Postal Service should be run in a less than efficient manner, that unneeded employees should be hired, or that services should be provided which are not really necessary. Every Government agency should be encouraged to strive for maximum efficiency in its operations but not to the extent that the agency's primary functions are impaired. It simply makes no sense.

I believe the Postal Reorganization Act accomplished some real and much-needed reforms, notably the elimination of the old patronage system of hiring. Much of the streamlining of administration and operation of the Postal Service as well as the innovative technology which has been adopted over the past three years have been beneficial. What is needed is a clear directive from Congress to Postal Service administrators that cost-saving and self-sufficiency are goals which come second to prompt, efficient, and courteous service.

There are several steps which should be taken immediately to implement this directive. The first is to remove the existing mandate that the Postal Service become virtually self-sustaining by 1984 which the Chairman has proposed in

his bill, H.R. 15511. This goal has turned out to be the major obstacle to decent mail service and must be revised. Secondly, Congress should set specific performance standards which it expects the Postal Service to achieve for the American public, require that they be met, and pay whatever additional subsidy costs it will take. In this connection, I strongly endorse the specific service standards proposed by Congressman Elwood Hillis in H.R. 5051 which include next-day delivery of mail deposited for delivery within a city, three-day delivery of mail deposited for delivery within the United States, carrier service on a six-day-a-week basis, second-attempt delivery of parcel post, and multiple delivery and collection service. The public is entitled to no less than these standards of service and, to the extent that we accept lesser standards of service, we fail them.

In addition, through my constituent contacts involving the Postal Service, I find a recurring structural problem which stems from the overemphasis on management efficiency to the detriment of actual service to people. The Postal Service is organized functionally to stress operations, administration, finance and employees, but conspicuously not the public it is intended to serve. It seems to me that as a public service organization, one as vital as any public utility, the Postal Service should provide greater representation of mail users' interests within the counsels of postal policymaking. I frankly see little indication that they are adequately represented and much evidence to the contrary.

Furthermore, the appalling insensitivity and indifference which many of my constituents experience routinely in dealing with postal officials do nothing to dispel the impression of the Postal Service as a distant unfeeling corporate entity.

A division of the Postal Service specifically designed to represent consumer interests, reporting directly to the Postmaster General, and participating regularly in policy decisions would go far to rectify the existing imbalance. A considerable expansion of the existing Consumer Advocate Office would seem to be a step in the direction of building a more powerful structure of consumer interests within the Postal Service. Such a unit could be responsible for seeing that the specific service standards are met and could apply the continuous kind of pressure which will be needed to keep them up. A separate division, with adequate staff and resources, whose sole job would be to receive and act on consumer complaints and to expedite solutions on behalf of mail users would do much to improve the Postal Service's poor public image.

While I am on the subject of the Postal Service's public image, I would like to comment on another matter which has been disturbing both to many of my constituents and to myself. I am referring to allegations of conflict of interest and squandering of postal funds involving the Postmaster General. I'm sure the Committee is aware of the series of articles by columnist Jack Anderson alleging that Postmaster General Klassen has accepted consultant fees and detailing extravagant expenditures which Mr. Klassen has approved for his own personal comfort. I am at a loss to explain to my constituents why the Postmaster General should appear to grow richer and enjoy more luxury while the Postal Service continues to run a deficit and mail service grows steadily less reliable. These reports, which have not been satisfactorily answered, contribute greatly to the low esteem in which the Postal Service is held by the public. They must surely be demoralizing to postal employees as well.

In response to this situation, I would strongly recommend consideration of legislation to prohibit the Postmaster General, whoever he may be, from engaging in any activity which might involve a conflict of interest. I would also urge a full investigation of the charges against Mr. Klassen. On the basis of Mr. Klassen's penchant for extravagance when everyone else is tightening his belt, and overall record as Postmaster General lacking in achievement, I am inclined to believe that the public interest would best be served by his resignation.

Once again, I want to thank the Chairman for this opportunity to appear before your Subcommittee.

Mr. HANLEY. Mr. Rhodes, please resume the witness chair.

I reiterate that the quality of your testimony is indeed excellent and obviously a great deal of research has been afforded the subject matter. I am delighted to have you say that in the judgment of Reader's Digest the service, though no better, is no worse than it was prior to the implementation of the Reorganization Act. I am delighted that that's the case from your standpoint.

I would be less than candid if I didn't say that that is inconsistent with the experience of the Congress as evidenced by the complaints from virtually every congressional office that these complaints have far exceeded the volume prior to that of the Reorganization Act and essentially provide a motivation for these hearings.

Do you have any comment on this difference of opinion that the people out in the field have registered far more complaints during this brief several-year period than the Congress ever received prior to implementation of the Reorganization Act?

Mr. RHODES. Well, I think first we look at it statistically. In our broad statistical base the fact that one letter does get mislaid does not change the average delivery time very much. So you must remember our figures are based on thousands and thousands of letters and not on the letter that the Congressman just said was missent from Jamaica, Long Island, to Jamaica, British West Indies.

I think the other thing that certainly must be acknowledged is that mail service deteriorated in early 1973 very seriously and our own record and chart shows that, and I think many of the complaints that you had were in that period and have evolved from that period. It's an image that the Postal Service gets.

Surely there's a need for reliability, but surely the error of percentage is always going to be there and when you make an error in the Postal Service you really make an error.

Mr. HANLEY. Are there any particular areas, geographically speaking, where you have poorer service than is average?

Mr. RHODES. No. We cooperate with the Department in giving them our figures and we generally feel that geographically they do a good job.

Mr. HANLEY. I see.

Mr. RHODES. We keep track of it by States. What we do is insert a post card into our outgoing mail and ask our subscriber to return the card indicating the day on which he received our mail, and we have been doing this for years. We track it by State from the time it leaves our building until it reaches our subscribers.

Mr. HANLEY. I regret to say that we've got a problem here inasmuch as there's now a quorum call. I'm going to suggest, if this is OK with my friend and colleague, Bill Ford, that we recess and make the quorum and report back in 10 minutes. I know I have a number of questions.

Mr. FORD. I don't think that will be possible, Mr. Chairman, because the appropriations bill is on the 5-minute rule. Under the rules of the House the minute they start on it following this quorum we will be unable to continue these proceedings.

Mr. HANLEY. Is that the intent, that we move right into the 5-minute rule?

Mr. FORD. There's an amendment pending from yesterday, as a matter of fact.

Mr. HANLEY. Well, in accord with the rules of the House, that quashes the suggestion that I made.

Mr. FORD. I don't want to cut off coming back, but I'm just saying it's probably going to run into that within a matter of a few minutes after this quorum concludes.

Mr. HANLEY. Well, again, it's regrettable that we find ourselves in this position. I have a good number of questions I hoped to chat with Mr. Rhodes about and I'm sure that you, Mr. Ford, have a number of questions.

Mr. FORD. Mr. Chairman, before they come back, we could ask them to have their graph expert take a look at the graph they gave us here on service. There's an interesting phenomenon that occurs if you look at the two graphs. You see that when one class of service was going up in days of delivery or in effect becoming poor, the other one went up with it; and when the service got better they both got better until we hit 1968-69 when the two went in opposite directions, third and first class; and again, that phenomena occurred between the middle of 1971 and the middle of 1972 and for some reason beginning in the middle of 1972 they got back together and they have been going up and down until 1974 when they start going in opposite directions again.

What were the events or what do your experts who have been studying the mail have as an explanation for that strange happening on periodic occasions?

Mr. RHODES. I don't think we can answer that right now, Congressman. We have no explanation. We just—

Mr. FORD. Are those contemporaneous with rate increases or with something else?

Mr. RHODES. We will look at them and send you a message.

Mr. FORD. I note the last time it happened was about the time that Mel Laird went over there.

Mr. RHODES. I don't think he's even on the chart. I also can tell you that these beautiful charts, which didn't cost us a nickel, because my associate, Mr. Hoyt who's in the room, drew them, just are simple graphs of the data and we often don't understand why the data behaves the way it does. We will see if we can find some explanation for what you mentioned.

Mr. FORD. It looks like the chart of the economy with unemployment and prices going in the same direction.

Mr. HANLEY. Thank you, Mr. Ford. And with that, in accord with the rules of the House, we find ourselves in this difficult position. I had hoped and looked forward to a colloquy with Mr. Rhodes. That will have to be placed in abeyance. We do have a number of questions, Mr. Rhodes, which I will present to you. I'm looking forward to your response to them.

Mr. RHODES. Very good. [See p. 419.]

Mr. HANLEY. And again, our deep appreciation for your very well-done testimony. It's certainly going to go a long way in assisting this committee in its deliberations.

Mr. RHODES. Thank you for your time, particularly this morning.

Mr. HANLEY. Thank you, Mr. Rhodes.

[Whereupon, at 10:15 a.m., the hearing was adjourned.]

[The report which follows, on Conference on Books by Mail Service was received by the subcommittee for inclusion in the record.]

CONFERENCE ON BOOKS BY MAIL SERVICE

A REPORT

The Conference was held on June 23, 1973,
in Las Vegas, Nevada, under the joint
sponsorship of
The Council on Library Resources
and
The Indiana State University
Department of Library Science

Choong H. Kim and Irwin M. Sexton

September 1973

Department of Library Science
Indiana State University
Terre Haute, Indiana

HIGHLIGHTS

- o Rural books by mail programs are reaching from 10 to over 50 percent of rural population hitherto unserved by any of the standard public library services in the local area.
- o There is little difference in reading interests of rural people whether they use the books by mail program or the regular library outlets. Rural reading interests are found to be largely in the areas of recreation, pleasure, home and family life. Women are the dominant group of rural readers, and not surprisingly, children constitute a minority.
- o Urban or metropolitan books by mail programs are reaching a growing segment of those homebound, elderly, institutionbound, and working people who work during the library hours as well as a growing number of users of standard library services. Together these people represent from 4 to 6 percent of the total population in the local urban area.
- o Urban books by mail uses reflect to a large extent the general reading interests of the regular library users in the local area where, in sharp contrast with the rural reading, non-fiction reading predominates.
- o Books by mail programs are the main source of books for unserved rural population; whereas they are a supplementary source of books for most of urban population except those homebound, elderly, and people with physical impairments. The program is the main source for the latter groups.
- o Staff involvement is an essential part in all of the books by mail programs. In both rural as well as urban programs, staff cost is found to be the largest cost factor, whose relative cost may be expressed in median percentages of about 50 percent in urban and 30 percent in rural programs.
- o The available data indicate that the staff cost in urban programs, such as San Antonio's where professional staff handles books by mail requests just as they handle walk-in patron's requests, is estimated to be about equal to or less than that in rural programs.
- o In rural books by mail programs, a separate book (paperback) collection is found to be the second largest cost factor (the median is about 24 percent). In spite of the cost, such a collection is justifiable in order to serve a large additional rural population. However, a similar collection to serve general reading interests for an urban program would be a costly mistake, inasmuch as a great majority of urban books by mail users are also users of standard library services.

- o Preparation and mass-distribution of books by mail catalogs are found to be the third ranking cost factor (median of 12 percent) among rural programs. The cost per catalog copy ranged from 5¢ to 20¢. (1973 costs) The larger the number of books by mail users, the less costly the catalog becomes.
- o The available data indicate that the frequency of issue rather than the size of books by mail catalog is directly influential in improving the catalog use, and that people tend to choose from the catalog titles prominently listed, illustrated, and annotated. It is also found that people order very few non-cataloged items from the main collection in spite of the fact that a statement is made in the catalog urging such outside-the-catalog orders. It is suggested that both urban and rural programs experiment with "mini-catalog" and/or "package stuffers" on selective topics to selective users.
- o Most of the known books by mail programs have learned to even out or control the demand by staggering the mailing of the catalog and thereby improve the collection as well as catalog efficiency.
- o There is a growing evidence that both rural and urban books by mail programs are in fact helping the use of standard library services in the same and/or nearby communities. In some cases the books by mail program was instrumental in making people want a regular library in their community. Thus, the books by mail program is complementing rather than competing with (let alone replacing) the existing standard library services.
- o The Conference has brought to a sharp focus the emergence of two different types of books by mail programs. One is the urban or metropolitan program designed primarily to serve the urban population and their needs; another is the rural program designed mainly to serve the rural population and their needs. In fact these two are so clearly different that it is advisable that they follow different directions for further development.
- o Of the many areas requiring further improvement, experimentation, and development, two most outstanding ones are (1) development of variously designed catalogs, standard as well as special purpose catalogs, to suit the needs of metropolitan and rural populations, and (2) methods whereby people can communicate easily and inexpensively with the library staff to get especially outside-the-catalog books and/or information from the main collection by mail.

BOOKS BY MAIL

"The books by mail program is the kind of activity that is reaching out, that people are recognizing, and that is giving us the public image which is so important. If I were to try to list two important movements that I see in the public library field in the next few years, it would be the books by mail program and the non-traditional educational programs. I think there is a place where these two fit together working in conjunction."

With these encouraging remarks by Mr. Foster E. Mohrhardt of the Council on Library Resources, the Conference on Books by Mail Service opened on June 23, 1973, in Las Vegas, Nevada. The highlights of the Conference discussions are recorded in a 60-minute cassette tape now available for distribution from the Department of Library Science, Indiana State University, Terre Haute, Indiana.

A number of papers were written and submitted for the Conference discussion by directors or librarians of leading books by mail programs. This report is an effort to summarize these papers which contain not only descriptive but statistical data, most of which can be best presented in this format.* In summarizing these data, the present reporters tried to see the facts as well as the implications. Admittedly this summary is subjective and may have been written differently by different reporters. This subjectivity, though unavoidable, will be balanced by publication in the near future of a separate volume containing the complete papers and data. It is hoped that this report will serve for all interested public librarians in the nation not as a guideline, but as a seasoned advice to help plan new books by mail programs or give new direction to existing programs.

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- * Bur Oak Library System, Illinois
 Corn Belt Library System, Illinois
 Rolling Prairie Library System, Illinois
 Vanderburgh County and Evansville Public Library, Indiana
 Central Kansas Library System, Kansas
 North Central Kansas Library System, Kansas
 Enoch Pratt Free Library, Maryland
 Wyoming County Library, New York
 Mail Order Delivery (MOD) Library Service, Harrisburg, Pennsylvania
 San Antonio Public Library, Texas
 North Central Regional Library, Washington
 Dodge County Library, Wisconsin
 Manitowoc County Library, Wisconsin

PART I. INPUT RESOURCES

COST: IS THE BOOKS BY MAIL PROGRAM ECONOMICALLY FEASIBLE AND PRACTICAL?

This question is important not only to those libraries where a new books by mail (hereafter called BBM) program is being planned but also to libraries where the programs are largely supported by Library Services and Construction Act or other outside funds, inasmuch as a decision on the future of the programs will have to be made when these funds are terminated. Several BBM libraries have made the decision to continue and develop the program.

In determining whether or not the cost of a BBM program is acceptable the experience of libraries where such programs have already been developed may be used as examples. Two most experienced BBM libraries, San Antonio Public Library in Texas and North Central Regional Library in Washington, offer most encouraging examples. At the termination of the outside funds that had been supporting their experimental programs, both of the Library Boards found the program cost acceptable and decided to keep the programs and incorporated them into the regular budget.

The San Antonio program, an urban model, did not have to set up a separate additional collection or a mail-order catalog to start and maintain the program; it was "embarrassingly simple," according to the Library Director. Following this model closely, the Enoch Pratt Library of Baltimore recently started a books by mail program with no special collection or catalog. In spite of a severe budget cut, the Enoch Pratt Library has been able to initiate and maintain the program on a "less than shoestring budget," according to the Coordinator of the Program.

In the North Central Regional Library, a rural model, the Library Board decided to keep the Mail-Order Library program at the termination of the LSCA funds that had been supporting it. The Board found that the program turned out to be quite competitive with other alternatives in terms of cost and far advantageous in terms of achieving the objective of "equalizing the library service." For this library, the main strength of the program lies in the fact that it does not require the concentration of population in a locality a bookmobile or branch service would require. Manitowoc County Library in Wisconsin followed the North Central model very successfully in instituting a rapidly growing Mailbox Library program. According to Alice Kelley, Extension Librarian, "It costs the same to circulate a Mailbox Library book as it does to circulate a book from the general collection of the Manitowoc Public Library--63¢ per book." In the Wyoming County Library in New York, Irene Swanton, Assistant Library Director, found the BBM program economically feasible and perhaps, "cheaper than the regular service."

One small library system in Wisconsin, Dodge County Library, has been operating a modest but growing books by mail program without any outside funds for over a year. This Library prepared a very modest home-made catalog and offered use of the entire library collection for mail service.

So far none of the existing programs known to these reporters has decided to discontinue the program because of lack of funds or high cost. On the contrary, the BBM program in some areas is being given serious consideration because of budget cuts.

Another approach in looking at the cost is to compare the cost and benefit between libraries and/or between different services. This approach is useful in that it furnishes a firm ground for making a decision.

An economic analysis of Pennsylvania State Library's BBM project, Mail Order Delivery (MOD) Library service has been made as a research project of the Institute for Research on Human Resources by Dr. Teh-Wei Hu and Dr. Bernard Booms.* The main purpose of the study is to compare the benefit-cost relations between the MOD Library service and the existing bookmobile service in the State. The preliminary data seemed to indicate that the two services are comparable in cost-benefit ratio, and that the cost outweighs the benefit in both services: "Bookmobiles, on the average, have ratios of .74 (benefits/current costs) and .68 (benefits/total cost), while the MOD program has ratios of .73 (benefits/current costs) and .64 (benefits/total costs)." At this writing, however, these data and interpretations are being finalized; a summary of these will be included in the separate volume to be published shortly. Mr. William Mick, Director of the MOD Library, in relating his personal assessment of the program indicated that in the long run a cooperative BBM program using a catalog prepared cooperatively or purchased commercially would be more economical than if the entire cost of the present operation were borne by local libraries. This appears to be what the three library systems in Illinois have been experimenting with.

Discussing the Illinois' BBM programs at the Conference, Dr. Lucille Wert, Director of Library Research Center of the University of Illinois, indicated that the three systems (Bur Oak, Corn Belt, and Rolling Prairie) were serving about 7,500 borrowers in 1972 at a cost of \$8.06 per borrower, and that the three system librarians were going to have to consider the cost of this service in comparison with other services they were giving in deciding what to do for the future of the programs. Thus, a cooperative program, such as Illinois', may not be as simple or economical as suggested by the director of the MOD Library.

* Teh-Wei Hu, Bernard H. Booms and D. Lynn Kaltreider. *The Cost-Effectiveness of Bookmobiles vs. 'Books by Mail' (MOD) in Pennsylvania.-- A Summary.* September 1, 1973. Institute for Research on Human Resources, Pennsylvania State University. University Park, Pennsylvania.

In discussing cost comparison, it is obviously essential to compute the cost in specific amounts--total as well as unit cost in dollar amounts. Program costs need to include staff, facilities, equipment, book collection, postage, supplies, etc. From the available cost data of ten BBM libraries sampled, unit cost per book circulated can be computed for each of the ten programs as follows:

\$3.60, 1.00, 87¢, 73¢; 69¢, 67¢, 65¢, 63¢, 60¢, 45¢,**

the apparent median lies somewhere between 65¢ and 69¢ or about 67¢.

It is not, however, suggested that one use these figures for comparison because of the lack of use of a common cost model in computing the costs. Obviously, also, these cost figures are a function of amount of use as well as total volume of operation. Moreover, to be meaningful, one must assume that all the programs are in full or optimal operation.*** In other words, a point is reached where one percent increase in circulation requires one percent increase in cost. This, the present reporters do not presume. At any rate, if a comparison is to be made, it should be made between programs similar in size as well as character. If one had a unit cost data about regular library service, one would be able to compare one's BBM program with other service. The North Central Regional Library's program is the only one supplying in its 1970 report such a cost comparison between the Mail-Order service (73¢ per book circulated) and the projected bookmobile service (\$1.03). The Pennsylvania study mentioned earlier indicates a cost comparison between these two services in a different way.

In the absence of common cost models, it is important to ask just what went into the computation of cost and examine the relative importance of each cost item in the total cost. Each cost component is discussed in the order of importance as follows.

In all but two of nine BBM libraries sampled, the largest cost factor (or component) has been found, not surprisingly, to be salaries and wages. It was a close second in the other two programs. Its percentage of the total cost ranged from 56 percent to 25.5 percent, the median being about 30 percent. The available data indicate that the largest BBM program also had the largest percentage figure for salaries and wages--this seems to suggest that there is a fixed amount of staff work involved in the operation and that the large volume operation does not reduce the staff cost.

* 1970 cost; others are 1972 costs.

** Some of these figures are drawn from the "Preliminary Estimates" presented at the Conference by Dr. Bernard Booms.

***"Bookmobile programs and MOD are, in general, operating under a decreasing cost condition. Therefore, an expansion of these services will further reduce the average cost per book circulated." Hu, et. al. *Op. Cit.* p. 14.

How much and what kind of staff involvement is necessary for operating a good BBM program? There has been a debate over professional personnel in BBM operations, and this question may be resolved by looking at the available data which indicate that in all but one of the rural BBM programs the professional is a part-time assignment--most of the programs, including the largest, do not require a full-time professional to run the program. The main professional duties consist of selecting books for the collection as well as the BBM catalog. The latter requires some professional attention as to overall layout design and listing. Data indicated the relationship between the amount of staff work and the volume of operation as follows.

In the San Antonio program less than 10 hours a week of clerical staff work is necessary to handle about 600 weekly book circulation. This Library does not provide a mail-order catalog or a separate BBM collection of paperback books. However, someone on the professional staff must answer every telephone call for a BBM service. It has been found that answering of a telephone call for a BBM service takes just about the same time, or in some cases less time, than helping a walk-in user. It may appear that the San Antonio program involves greater professional staff time than if a mail-order catalog were prepared and distributed to the users. But actually, professional staff time involved does not amount to more than 20 hours a week on the whole. BBM catalog preparation could easily involve more staff hours than this. In this program the number of books circulated per staff hour can be computed to be roughly 20. (This may be called staff efficiency)

In the Wyoming County Library, New York, the program involves a staff of two part-time annotators, a 20-hour a week clerk plus a part-time clerk to handle a weekly circulation of about 440. The MOD Library in Pennsylvania reported in the early months of 1972 its staff of one professional, three clerical persons, and one part-time person handled over 800 orders (or requests for over 2,000 books) a week. In Manitowoc County, Wisconsin, the BBM program involves 1½ clerk-secretaries, 15 hours of extension specialist's time, and 20 page hours a week to handle a weekly circulation of over 1,000. No staff data were available from the North Central Regional Library's Mail-Order program for this report. The staff efficiency as defined earlier ranged from about 8 to about 20, with the median being around 10. It would be interesting if the staff data of North Central, a rural model, were available to compare with a large urban BBM program, such as San Antonio. Admittedly these are very rough estimates based on rough data; but it is rather surprising to find that the staff efficiency can be much higher in urban programs than in rural programs. This is probably due to the fact that in the urban program no staff time is required prior to the user request; whereas the rural program requires professional staff work in the largely make-ready process of book selection, catalog preparation, distribution, etc.

In seven of the nine BBM libraries the second ranking cost factor has been found to be the BBM book collection (acquisition cost). This factor's percentage ranged from 13.4 percent to 33.8 percent, the median being about 24 percent. This cost factor is not usually found in urban BBM programs. Factors included under collection costs are basic cost and general depreciation problems which will be discussed in this section; size of the collection is discussed in a later section.

The rural BBM collection consists mostly of paperbacks which can be procured very inexpensively. In addition to discounts, book cost for the program can be further cut by giving a minimum of cataloging and processing to paperbacks. It has been found that paperbacks can stand three or four years of heavy circulation. Book loss through the BBM program should also be accounted for as a depreciation factor. In all of the BBM libraries, the book loss has been found to be about equal to or less than that of standard service. Pratt Library in Baltimore reports fewer books lost through the books by mail than through the standard service. According to Mike Sexton of San Antonio Public Library, "It's very hard to steal books by mail." Thanks to the flourishing paperback publishing during the past ten years it now seems entirely possible to have an inexpensive paperback collection in adequate quality and variety to satisfy the predominant reading interests of rural people.

It is obvious that rural BBM programs require an additional collection because of the fact that the program increases the population served. Most of rural programs are now reaching substantial parts of the rural population hitherto unserved. Some of the programs are reaching as much as 50 percent of the unserved rural population. However, all indications are that it is a costly mistake for an urban BBM program to set up a separate paperback collection of a general nature along with an elaborately prepared mail-order catalog. This is, in a sense, transplanting the rural BBM model into an urban situation where rural segments constitute a small minority. Only one library reporting has experimented with such a combination so far; the Library reported a disappointing beginning, but has decided to continue the program in spite of the initial disappointment and withdrawal of the LSCA fund. By offering the entire library collection for mail service and duplicating only those that are in demand, the urban BBM program does not have to risk an over-stock situation. There is no point in duplicating the collection to serve essentially the same reading interests and the same population.

In six of the nine BBM libraries the third ranking cost factor has been found to be preparation, printing and bulk-mailing of BBM catalogs. This cost factor is not usually found in urban BBM programs. The percentage of this factor ranged from 6.3 percent to 33.3 percent, the median being around 18 percent.

Printing cost of the catalog, of course, varies with size, format, material and design of the catalog. For example, the Manitowoc County Mailbox program has prepared six catalogs so far; the cost reported covered everything from composition, photos of books, cover photos, and offset printing on web press. The first catalog in 1972 was a 20-page tabloid on newsprint stock at a cost of \$958.94 for a run of 9,500--which is about 10¢ a copy. The sixth catalog had only 12 pages, and it was put out in April of 1973 at a cost of \$2,414 for a run of 12,000 or about 20¢ per copy. The North Central Regional Library in reporting its catalog cost information for the first 18 months of its operation stated: "Total catalog printing expenditures for the base edition, supplement and cumulative edition totaled \$3,144. The cost of reproducing the 40-page second edition of the newsprint catalog, as of October 1, 1969, is estimated at \$1,217 for an initial 25,000 copies and \$845 for each additional 25,000 copies, a unit cost of less than 5¢." Scale economy is achievable with catalog cost. Thus, it is interesting to note that in the largest BBM program the catalog is the fifth ranking cost item.

In six of the nine BBM libraries the postage cost has been found to be the fourth ranking cost factor. (There are six cost components altogether.) In the three other libraries, it is a close third. Its percentage ranged from 6 percent to 21 percent, the median being about 12 percent. In San Antonio, postage cost is as large a cost as supplies (each runs 7¢ per book), and both costs are only exceeded by the cost of the professional staff. Although it is a relatively minor cost factor, the postage cost is so visible to the public that its importance is usually overestimated in the beginning of a new BBM program.

In all of the BBM libraries the cost of supplies, including mail bags, has been found to be the smallest or next to the smallest cost factor. This fact can dispel the misconception about the importance of this cost. For example, it was found that mailing bags could be reuseable many times.

Four of the nine BBM libraries had a small expenditure for advertising. It is not possible, however, to gauge the effect of local advertisement, for none of the libraries had a budget for a systematic advertisement program. It is doubtful that a local government agency, such as public library, is permitted to have any significant amount of expenditures for advertising. BBM program is a good news feature, and the media people are normally very receptive and willing to give publicity to such news. However, no matter how active the outside publicity may be, indifferent staff attitude toward the BBM program generates only an indifferent result. There are indications that in spite of the library's all out publicity effort, many people are surprised to find about the books by mail program for the first time from library staff.

COLLECTION: HOW LARGE SHOULD A BBM COLLECTION BE?

Any new venture requires funds. Thus, librarians want to be sure that new BBM programs will succeed without sacrificing any of the regular services. Additional money or outside funds are needed to buy additional books, prepare mail-order catalogs, and the staff necessary to operate the program. In regard to the collection size, librarians usually have two fears, fear of being short-stocked and fear of being over-stocked; these two are in conflict with one another. To avoid being caught short, most of the rural BBM libraries duplicated titles in the collections having from three to ten or more copies of one title--one library reported having 70 copies of "The Godfather." When many popular titles such as "The Godfather" outlived the demand, one is facing an overstock situation. Obviously it is impossible for anyone to accurately predict the amount of demand that will be made on specific titles, and no collection can completely avoid either short- or over-stock situations. But the BBM libraries have learned to even out the demand by staggering the mailing of the BBM catalog and/or staggering the listing of titles in the catalog. Catalogs are becoming smaller with fewer titles listed, and "mini-catalog" and/or "package stuffers" are being experimented with to supplement or substitute for the big catalog.

Urban BBM programs can avoid these problems altogether by offering the entire library collection and making no promise of "instant availability on demand." The San Antonio program acquires any requested titles which the library does not have. Also a mimeographed new acquisitions list goes out with the BBM packages, a sort of current awareness service.

One of the collection adequacy measures frequently used involves indicating how often the collection was unable to supply the books requested or a "failure rate"; more positively stated a "success rate" can be used to indicate how often the book requested was available on the shelf for use when requested. Numerical data on these are scarce. The San Antonio study (*Wilson Library Bulletin*, May, 1973) presents such data: 60 percent of requests were met in 1972 with no delay, 70 percent met within five days, 73 percent within a week and so on. Ninety percent of the people polled expressed full satisfaction that they were almost always getting what they wanted through the BBM service. Data compiled by the Library Research Center of the University of Illinois are also available for the three library systems in Illinois: Bur Oak Library System reported 59 percent success in meeting the request without much delay; the success rate was 73 percent in the Corn Belt Library System; and 53 percent in the Rolling Prairie Library System. The MOD Library of Pennsylvania reported almost 100 percent success in meeting requests if a delay of a few days is allowed.

An overall collection performance may be expressed in terms of the number of circulations produced by a copy of a book in the collection. This is determined by dividing the number of volumes in stock into the number of circulation. One BBM library indicated in their first year of experiment an extreme case of overstock. The first year data indicated that the BBM collection yielded only .64 circulations per volume; there were 29 volumes available for every BBM user during the period. At the other end of the scale, a large rural mail-order program demonstrated that over 7.7 circulations were produced per volume with only .97 volumes in stock for each household using the BBM service. Between these two extremes in the scale fall other rural BBM programs.* For example, Central Kansas Library System's first report provided data from which one can compute 2.8 circulations generated per book in the BBM collection. In the Bur Oak Library System in Illinois the average was 5.0 circulations per volume. Manitowoc County, Wisconsin, reported a circulation of 46,488 in 1972 with a BBM book stock of from 10,000 to 15,000 volumes, or from 3 to 4.6 circulations per volume. The Manitowoc program reports acquiring one third fewer copies per title listed in the May 1973 catalog--this indicates a substantial improvement of efficiency of use as well as economy.

Comparing of collection performance between the regular and BBM collections would have been interesting, had there been similar data about the regular collection available--comparing how the same titles performed in the regular and BBM collections. However, this kind of comparison is always hazardous especially within the same library where use of one book affects use of other books in the same collection.** Most meaningful comparison may be obtainable within the same library using different points in time--all the BBM programs use this periodic comparison. They report that their BBM programs are growing and that they are now better able to control the peak demand. As they gain more experience and confidence, such an improvement should be reflected in the two performance measures discussed above.

* Numerical data used in this section are rough estimates computed from inadequate and tentative data made available for this report. These are used for illustrative purpose and are not to be construed as reflections on the individual libraries' performance.

** One should be extremely wary of comparing one library with another. It is simply not possible to assume (let alone control) that all the important variables other than the one in question are "equally" or randomly distributed in the communities in question.

CATALOG: HOW IS THE BBM CATALOG RELATED TO THE PROGRAM PERFORMANCE?

Selection of titles for the BBM catalog, or for the entire library, has always been a guesswork, for the librarian must select books in the absence of systematic feedback from the users. Assuming that the selection policy is consistent with the service objective, effectiveness of the catalog may be measured in terms of orders received per catalog bulk-mailed and also in terms of number of books circulated per catalog distributed. The MOD Library of Pennsylvania is using these measures--the former is called "yield rate," and the latter "circulation performance ratio or C.P.R." The latter is derived by dividing the total number of books mailed by the number of catalog copies bulk-mailed within a given period of time.

The MOD Library reported county by county catalogs distributed, orders received and books mailed. The first nine-month sample data in 1972 indicated an overall yield rate of 1.03 (19,235/18,603), and a C.P.R. of 3.06 (57,027/18,603). The Manitowoc program data indicated a two-year (71-72) yield rate of 0.42 (19,171/40,000) and a C.P.R. of 2.066 (82,662/40,000). The Bur Oak Library program data indicated a yield rate for 1972-73 of 0.256 (12,824/50,000) and a C.P.R. of 0.97 (48,865/50,000). The Corn Belt Library System data indicated a 1972 yield rate of 0.2 and a C.P.R. of 0.85. The Rolling Prairie data indicated a 1972 yield rate of 0.26 and a C.P.R. of 0.89. The North Central Regional data indicated a five-year (68-72) average annual yield rate of 1.14 and a C.P.R. of 6.58. (These numerical data are used for illustrative purpose and are not to be construed as completely accurate.)

Number of titles listed and frequency of catalog issue are important variables that directly affect the yield rate and the C.P.R. The North Central Regional data indicated that while its catalog listing has been gradually reduced over five years (24 p., 8, 40, 12, 36, 20, 16 x 5)* and (1,500 titles, 275, 2,000, 350, 1,500, 600, 500 x 5), the C.P.R. has actually improved (5.35, 6.81, 5.17, 7.0, 7.5). It appears that the catalog size can be reduced without affecting its effectiveness adversely. Manitowoc County data also supported this--while the Library has been reducing the number of pages in the catalog (20 p., 28, 32, 28, 28, 12), the circulation has climbed steadily.

As previously mentioned, all the BBM libraries have learned to avoid the peak demand that resulted invariably soon after each distribution of new catalog by staggering the mailing. The demand may also be controlled by selective listing of titles to satisfy

* The latest five catalogs had 16 pages each.

special interests of the population. Mr. Michael Lynch of the North Central Regional Library recommended using "mini-catalog" or "package-stuffers" which go out with the main catalog. There are indications that some people do not read paperbacks because of the fine prints and that the subject matters that are represented in the general BBM catalog are too limited to many people. But these people who find the BBM collection too limited could get any books from the regular and much larger collection of the library. But do they order outside the catalog listing?

People order very little outside the catalog. North Central Regional Library reports: "During the first year or two of the program, orders for non-catalog items represented a surprisingly small percentage of the total. However, between 1969 and 1972, orders for non-catalog items increased at a rate 40 percent greater than the increase in circulation." In all the rural BBM programs, it (still) occurs only occasionally in spite of the fact that catalog statements urge people to do so. A way should be developed so that people can order books or other materials from the much larger general collection of the library. This is an area where further investigation and experiment are needed.

How often do people use the same catalog? How many books do they order at a time? The Manitowoc County program reported the results of a recent user survey indicated that about 40 percent of the survey respondents used the program only once during the six-month period sampled (during which time they received two catalogs), another 19 percent used the service only twice, while about 40 percent used it three or more times. This is the only available data that answers the question indirectly. The survey also showed that 60 percent of the orders were placed by one or two persons in the household, and the remaining 40 percent of orders were by households in which three or more persons used the program. This indicates that in a majority of cases, two or more persons are involved in each order.

The Manitowoc program reported the average number of books per order was 4.3. The MOD Library data indicated the average number of books per order remained around 2.99 for most of 1972. The North Central data indicated an average of 1.14 orders per household in an average year (1968-72), and each order resulted in an average of 5.7 books mailed. In San Antonio, the average number of books per request in 1969 was 2.5. In Illinois the average in Bur Oak was 6.2; in Corn Belt 5.8; in Rolling Prairie 6.3. It appears that rural users order more books at a time than do urban users. This seems to support the conclusion of the San Antonio study as mentioned earlier that the urban BBM program is a supplementary means of using the library resources to urban users. To the rural people, the books by mail program represents the main source from which to get the library material.

PART II. RESULTS

USERS: ARE THE BOOKS BY MAIL PROGRAMS REACHING PEOPLE?

Books by mail programs are reaching basically three population groups. The most easily distinctive and appreciative of the three are those who are homebound or institution-bound for various reasons including most of the elderly and those with physical impairments. These people are more concentrated in urban areas than in rural; the BBM program means a great deal to many of these people, and they have expressed it in letters and other communications to the libraries. According to Emily Reed of the Enoch Pratt Library, such letters from the users are a real morale booster to the library staff. This group constitutes a ready-made constituency for the books by mail program consisting of from 10 to 15 percent of the urban population! Most of the public libraries in cities and towns grant the books by mail service only to a few shut-ins only when requested. In most cases only a few are eligible for such "special service." It is a unanimous observation among all the BBM librarians and staff that people are always surprised and delighted to find that they can get library books by mail without charge.

Both urban and rural BBM programs are reaching this group of people mentioned above. For example, the Wyoming County program was offered Attica Prison and found the inmates to be most enthusiastic users. (The story by Irene Swanton appeared in Bookmark, March-April, 1973) In the Pratt Library in Baltimore, the heaviest patronage of the Library's BBM program comes from the Maryland State Penitentiary and from those elderly and homebound. In Evansville, the largest single group of the Library's BBM users, almost 39 percent, are those homebound and those physically impaired. The Evansville BBM program found, not surprisingly, that the large-type books are the most requested BBM material. Large-type books are finding a growing patronage among people of this group not only in Evansville but other communities. The Manitowoc program also reports rapid increase of BBM circulation to the state institutions.

Urban BBM programs are reaching a growing number of people who represent a cross-section of the urban population including users of other standard library services. The Evansville BBM program users which were found to be 73 percent urban and only 27 percent rural had 65 percent of BBM users also using the regular library services as well as the BBM service. The San Antonio program found over 80 percent of the BBM users were also using the regular library services.

New library converts were estimated to represent about 14 percent of all the BBM users in San Antonio. The latter were estimated at about 12,000 households which constitute from 4 to 6 percent of the metropolitan population (600,000).

The third group of users of BBM service are those large rural populations that are not served by any of the regular library services. The main objective of the rural program is to extend library service to these rural populations, thus such populations reached in this way represent a pure gain in service. The available data provides some estimates of the additional populations that can be reached. In Illinois, the three BBM programs reached in 1972 about 7,500 families or about 11 percent of the population in the area (assuming that each rural household has five members) that were not served by tax supported public libraries. The North Central data indicated that in 1972, 12,975 households responded to the library's BBM program. The Region had about 120,000 unserved people. Assuming that an average rural household had five members the program reached more than half of them. The Manitowoc data indicated that the program is in fact reaching over 16 percent of the unserved rural residents. The Wyoming County program data seemed to indicate that the program is reaching over 40 percent of the local population hitherto unserved. The Central Kansas Library System data indicated their "Almanac" reaching over 40 percent of rural families--20,200 rural families received an "Almanac" and 5,500 responded to use it during a five-month sample period in 1971.

Books by mail programs are growing in all the BBM libraries. The growth rate of the BBM programs exceeded that of the total library circulations. In San Antonio, the third year growth rate was 35 percent and over 25 percent in the fourth year. In terms of its share in the total circulation, the BBM program represented about two percent in 1971-72. The North Central Regional data indicated a phenomenal growth of 53 percent over the first year, 30 percent the second, 36 percent the third, 40 percent the fourth, and it is still growing. The program share is over 10 percent of the total library circulation. The Manitowoc data indicated that over the first year, the program grew 28 percent and it is growing rapidly. The Manitowoc's BBM circulation is about one tenth of the combined circulation of three adjacent city libraries.

From these and other data, one may conclude that the BBM programs are used heavily as a main source of reading materials for rural people as well as for a good number of urban people including the elderly, physically impaired, homebound, institution-bound, etc.

What do these people read? The answer is simple: they read the same books that they would if they were to walk into the library. More specifically, there is no evidence to suggest that the reading interests

of people using books by mail program are substantially different from those of people using regular library outlets. However, there is a sharp contrast between the urban and rural BBM program users. According to Mr. Michael Lynch of the North Central Regional Library, "The desires of the average mail-order patron are remarkably similar to those of the average patron who comes to the library." In San Antonio, there is little difference in reading interest between the two groups, inasmuch as over 80 percent of BBM users are also using the regular library service outlets. The San Antonio study mentioned earlier indicated that the BBM service is a supplementary rather than a main source of reading materials and that these two different means of borrowing books have nothing to do with the kind of books people borrowed.

Rural BBM users read a lot of recreational materials; the Manitowoc's recent study of BBM borrowings indicated that 42 percent of orders were in the category of adult recreational reading, 22 percent adult non-fiction reading, 17 percent for teenage interests, 9 percent children, and 10 percent easy readers and picture books. A more detailed breakdown of reading interest categories was used in the Illinois' study of BBM borrowings in the three Systems. Dr. Lucille Wert, who presented the findings at the Conference, came to the conclusion that the bulk of rural BBM reading was indeed recreational or reading about home and family life. The Wyoming County data indicated that during a six-month period in 1972 the circulation consisted of 46 percent adult fiction, 29 percent adult non-fiction, and 25 percent juvenile titles. It is interesting to find there is a remarkable resemblance in make-up of titles borrowed and titles listed in the catalog in the Manitowoc and in the Illinois data.

Urban BBM reading interests differ from the rural BBM reading interests. The San Antonio study indicates 25 percent of BBM reading in adult fiction, 64 percent in adult non-fiction, and 11 percent juvenile. This is closely corroborated by the North Central Kansas Library's "Dial-A-Book" program data which indicate that 70 percent of the circulation are of non-fiction and children's titles. The Dial-A-Book program is very similar to the San Antonio's BBM program, but the program is presently reaching only about one percent of the area population.

The San Antonio study mentioned earlier indicated that the BBM readers were almost equally divided between men and women, and women dominated fiction reading. Dr. Wert, in her analysis of Illinois' BBM data, concluded that women are predominant among rural readers. These findings seem to be consistent with those of earlier studies of library users and their reading interests. There are indications that women borrow books not only for themselves but for other family members including very young children.

ACCOMPLISHMENTS: ARE THE BBM PROGRAMS ACCOMPLISHING THEIR OBJECTIVES?

In discussing objectives of books by mail programs, one can expect a great diversity of opinions, viewpoints and emphases. The last panel of the Conference discussed various objectives and accomplishments, and it is the purpose of this section to summarize these discussions. It appears to these reporters that the key question was brought up to a sharp focus by Mr. Foster Mohrhardt of the Council on Library Resources who made this remark in his opening address at the Conference:

"I recently attended a small meeting in New York. ... a protest meeting against loss of federal funding for libraries ... discussing possibility of public policy statement on the importance of books, reading and libraries. ... In the discussion, recurring theme came up particularly from those non-librarians--a Congressman, Sam Gould of non-traditional education movement. ... A Congressman who started fighting to reinstate support for libraries throughout the country found that the local level libraries are very low on the list of priorities for the people, and in part, he attributed such to the fact that the library reaches such a small portion of the population being served. ... Sam Gould also indicated he felt that there was much more that the library could be doing to have a better public image. ... One of the reasons why we don't have a better public image than we do is because we tend to interpret this loss of federal funds primarily in terms of how they affect us and our own operations. Books by mail program is the kind of activities that is reaching out, that people are recognizing, and that is giving us the public image which is so important. ..."

Thus the basic objective of the books by mail program is to reach out to people, whether they are in urban or in rural areas and whether they are using the regular library outlets or not. The main objective is PEOPLE. The Conference asked a number of leading librarians in the field to evaluate in a few words the accomplishment of books by mail programs.

Speaking for the State's point of view, Mrs. Susanna Alexander, Associate State Librarian of Missouri, had this to say:

"State libraries have traditionally been in books by mail business and have hopefully worked themselves out of it with the development of libraries throughout the state. ... Two things that I would like to comment on in terms of looking to how the state might help local libraries in determining better ways to meet their patron's needs, and I think this is the objective we are looking for...

"Two of the problem areas that our libraries are facing-- books by mail may be an answer or partial answer--one is reaching people who are homebound, particularly in the less populated area. ... We have a program, a person to person program to visit with individuals in their homes throughout the rural areas. When it was started, the staff had to seek people out. Now they are finding hundreds of people asking for this kind of service. The staff people see the books by mail program as a good opportunity to continue to reach some of these homebound people they have cultivated over the years...

The other area that I see the mail service might reach ... is the less populated rural area ... particularly in farming area where ... it is not feasible that we meet some of these people in a traditional way that we have met them. Books by mail program in some form might help reach them. ... I feel that there is a need for combination of many methods in reaching the people ... and that it is going to depend much on the community and the people that we are trying to serve. ..."

Talking about the point of view of a state agency providing and operating a centralized books by mail program to serve some of the state's unserved counties, Mr. William Mick, Director of the Mail Order Delivery (MOD) Library Service, Harrisburg, Pennsylvania, related his personal assessment in this way:

"State Library's objective in setting up the MOD Library was to try to get books to people who never had them before in any way. It is the State's responsibility, because no one else was picking up the responsibility. ... You might ask why we set up a centralized MOD library operation instead of parcelling out money to a number of local libraries to set up their own programs. That was an alternative that was considered three years ago when a questionnaire was sent out to a number of librarians who were interested in the mail order project; the overwhelming majority of them wanted to try a centralized operation for at least few years. ... the local libraries would then be able to contract with the centralized operation for service. ...

The State really wanted to take a look at just how (shrinking) federal money should be allocated...and to try this mail order program idea and get some data quickly so that they would know ways of advising the librarians at the local level whether or not this would be a viable delivery system.

Getting back to the question of whether or not the MOD program has been a success, the answer is yes and no. It has been useful in getting some local officials to provide their revenue sharing money. There was one outstanding case where county commissioners doubled

the appropriation for their local library from \$20,000 to \$40,000 (because) the catalogs with a little advertisement for the county commissioners get into the voter's hands... In getting books to people who never have received library service, to shut-ins or to people in Appalattian areas, we have to call it a success. It seems that now there is a little bit of support in terms of people willing to write letters to get library groups together to drum up support for library service. ...

In another way it is not a success; a centralized operation like ours is of necessity, somewhat divorced from the local library. I think this confuses some of the local borrowers inasmuch as they are not sure who is providing the service. ... The catalog is arranged in such a way as to give the local library utmost publicity...and full credit... But one the whole, we are satisfied with it. ...

(As for the future,)--I have a feeling that MOD Library could stay the way it is. At the moment we are in a state of flux...We are holding meetings to see if MOD Library could or should stay in the present form...More economical path may be a cooperative venture wherein the cooperative county or district libraries run their own mail order operation using the catalogs that are prepared either cooperatively or purchased commercially... It will take a little more time to look through it."

North Central Regional Library in Washington presents a working model of a rural books by mail program serving low-density rural populations spread over a wide geographical area. Michael Lynch, the director, talked about the objectives and accomplishment of the Mail-Order Library program:

"Our original objective in starting Mail-Order service in our region is to solve some problems that are really internal... Situation we faced was that we had three bookmobiles with staff attached to branch libraries located a hundred miles apart from one another. They were circling an incredible number of miles to establish a base by which it would be sensible to expend so much money; you would have to have a certain amount of circulation to justify it. We were having to face the reality...in another basic policy of the library board which is ... to equalize the service over this large area...

In state of Washington, the basis of tax support is local property tax in the rural area and the most of the service that is given from a rural tax-based agency is in the communities that are incorporated--these incorporated communities pay a contract fee voluntarily ... As our budget is decreasing, we were becoming very concerned that some crucial contracts might be broken and that rural people in specific areas would be basically unserved. So, the second objective was to provide an insurance policy should that happen, because we could get to anyone in that area by mail regardless of what the local community did...

We found that with our bookmobile service 85 percent of its use and circulation was on school grounds in approximately 25 percent of the schools in the district. We are an adult service agency... and what we found was we couldn't serve all schools equally. Another objective is to see Mail-Order service would provide the more realistic proportion of circulation among various school age groups within our district... We have met these particular internal objectives within our system... Indeed Mail-Order service is an insurance policy in a very real sense. We have reversed circulation mode so that it is somewhat proportional in terms of age groupings: 75 percent adult and 25 percent school age children.

We initially felt library service could effectively promote other libraries that existed. The experimental Mail-Order service was given to a community for a year, we found that when it was withdrawn, the community did contract for library service for the first time based on the experience of Mail-Order service...not for mail-order but for a community-centered branch type of service. So perhaps, there are some developmental aspects here... As far as promoting other library services, we take low profile talking about Regional Library, because local identity is essential... We put on the catalog the names of the local library and library hours to promote it...

Future trends as I see them--in our area, we see community colleges and even new state colleges started to embark on the university without wall principles. ... Regional Library is one of the few agencies serving over a large area that has the visibility on the community level... I now see Mail-Order service possibly providing one key to the enlarged concept of community centered library as serving with delivery of materials to these agencies whether educational or governmental. ... Mail-Order service is the primary source of popular reading materials...The branch library would be a different type of agency from what it is now. One future objective would be to test whether or not Mail-Order service could be a focal point for changing other services..."

Dr. Lucille Wert of the Library Research Center of the University of Illinois had this to say about the three Library Systems' books by mail programs:

"The objectives of experimental books by mail programs in Illinois are four fold: first was to reach people living in areas without tax supported library service. ... You might say that this is an outgrowth of the establishment of library systems in Illinois. The Systems were established during the 1960's to improve library service and improve access to library service in Illinois. ... (When the experimental program was started in the three systems) we still had one-third of the population that was not served by tax supported public libraries. ... The second objective was to stimulate the use of the existing library facilities. It was assumed

that people who were exposed to reading materials and library service might then go on to a local library to get additional materials. Third was to encourage the registration of non-residents at system member libraries, and the fourth was to encourage the formation of district libraries. I think it is a little early in our program to predict how are we going to meet these objectives. We are not reaching a large percentage of unserved people. I do think that this will come with time. We do not know yet how many of these people are using other library facilities or how many are registering as non-residents in the member libraries of the Systems. The last objective to encourage the formation of district libraries is the one that I think perhaps is farthest in the future if at all. ... As to the future, I think that the three system directors are going to have to consider the cost of this service in terms of the number of people they are serving--and currently it is costing \$8.06 per borrower a year, and then compare this cost with other services they are giving, and use their own judgement about the priorities."

How a books by mail program works in a large urban mid-city community? Emily W. Reed, Coordinator of Adult Services at Enoch Pratt Free Library in Baltimore, related her books by mail program experience as follows:

"Our concern was primarily the matter of reaching the homebound and elderly. I think all of you are aware of the fact that urban populations are heavily elderly. ... We were concerned about this but didn't do much about reaching them. When I read about Mr. Sexton's program, I couldn't believe it as simple as it was; and couple of us went down and looked at it, and it turned out that it was just simple... We went down there with every intention of establishing a books by mail program, but our budget was cut. .. Then we were offered some public employment program employees-- the City asked us various ways we could use those employees. ... and they (City) were just enchanted by books by mail proposal, and they said, 'You must use these employees for books by mail!' So the Trustees got us a little money for postage... We realized about this time that we were going to cut hours and branches; so, our second objective was to reach people who were not going to be able to get to the library in the hours it is open...

What materials do we mail out? Who can borrow through books by mail? We didn't set up any limitation except that people have to have a Baltimore address. ... As of now it has been used very heavily...

Recently I sent out a questionnaire to everyone except those in the Maryland Penitentiary who have used the program very heavily... We found that over one-third of those using it are disabled one way or another. One-fourth of them work during the hours that the library is open. I think you could add to the disabled the homebound people.

Another 11 percent said 'tied by young children.' I was interested in how old these people were: less than 10 percent were under 19; 13 percent between 20 and 29; 53 percent between 30 and 64; 31 percent over 65. (Over 52 percent returned in less than a week--the survey is not complete) Of these, a large number insisted on putting their name and address, although we had said we did not want to know their names. A good many of them wrote us a little note, and I tell you one thing--this may not be a purpose for such a program--but it's marvelous for the morale of librarian because these people are really appreciative of the service... I came to the conclusion that this service meant a great deal to a few people..."

Speaking for the urban books by mail programs, Mr. Irwin M. Sexton, Library Director of San Antonio Public Library, emphasized the fact that although librarians are running the same kind of books by mail program, their emphases are different. For example, Mr. Sexton emphasized the professional staff involvement in the program and thinks that such is essential to break open the greatest barrier of all, the communication between the library and the people it serves. Opposite view is that the professionals should not get involved in the routine operation of the program, because to do so would be too expensive. One is looking at the program as proper communication and educational duties of the professionals and the other is looking at it as an efficient and economical means of delivering books to unserved rural people.

In summary, the books by mail program, whether urban or rural, is not replacing any of the existing standard library services. The program tries to fill the gaps that have never been bridged in spite of the development of public library service networks in the nation over the past decades. There are information gaps, knowledge gaps, cultural gaps, value gaps, socio-economic gaps, and above all, communication gaps. The main conclusion of this Conference is that the books by mail programs are serving as a practical vehicle to fill or bridge these gaps. The library must have a regular two-way channel of communication with the people it serves. This alone is a good reason for maintaining and developing the books by mail program in public libraries all over the nation. The books by mail program can be designed in various forms to suit the local populations and communities.

It is the recommendation of this report that further investigation and experimentation be undertaken (1) to improve the books by mail program making it a practical and economical delivery system of not only library books but library communication and information as well, and (2) to develop a generally acceptable measure that is capable of indicating how well the library meets the needs of individual constituents in the local community. More specifically, there is an immediate need for development of variously designed catalogs, standard as well as special purpose catalogs, whereby people can communicate easily and inexpensively with the library staff to get not only cataloged books but especially non-cataloged books and/or information by mail.

[The statements which follow were received by the subcommittee for inclusion in the record:]

STATEMENT OF HON. MATTHEW J. RINALDO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to make a few comments on postal reform.

When the Postal Service came into being a few years ago, there was general hope that mail service throughout the country would improve. The plain fact is, however, that things have gotten worse. The past few years have shown mail service becoming slower rather than faster. Deliveries have become more erratic rather than more dependable. Government subsidies have grown larger rather than smaller. Yet costs have continued to climb.

In false attempts at economy, overtime has been cut down while mail remains piled up overnight.

Automation has not improved these conditions, and even zip codes don't seem to help.

Rather than having the committee simply take me at my word, I would like to cite some of the fruits of a survey I conducted when I first came to Congress. Dates given are in 1973.

Mr. Ivan Middlesworth of Elizabeth mailed a Valentine to his wife on February 10th. One week later, on February 17th, he was still waiting for the card to arrive.

Mr. Alexander J. Kersis of Elizabeth received Christmas cards postmarked December 10th. He received them, however, on Valentine's Day.

It took five days for a letter from South Carolina to reach Mr. Warren Eck in Kenilworth. Four years ago, it took only two days.

Travelong, an Elizabeth travel agency, had to write duplicate tickets—at great expense—because tickets mailed on February 7th did not arrive in New York City until 16 days later. That is an average of about 1 mile per day.

On February 20th, Mr. Jimmy E. Rochat, Jr., of Elizabeth was still waiting for letters that had been mailed the previous November in Wisconsin.

Mrs. Edyth Shackley of Elizabeth waited 11 days for letters from California.

Poor postal service almost cost an Elizabeth man his fiancée. Although he wrote to her faithfully, the woman, who lived in another state, grew angry because she was not receiving the letters.

Mrs. William Lang of Cranford received her tickets for a tour on February 14th—after she had returned from her trip. The tickets had been mailed on January 20th.

Mrs. Robert Hyland of Roselle Park received three copies of a local newspaper on the same day; one was a current issue, the second was a week old, and the third two weeks old.

Mrs. Emil Dube of Summit received a letter on February 15th. It had been mailed in Kearny, New Jersey (about 20 miles away) two months earlier.

Mrs. Howard Shallock of Cranford paid \$48 for tickets to a Rutgers football game. The tickets were mailed but never arrived.

Mrs. Philip Harding of Summit received letters from England in three days. From Philadelphia, they took 11 days.

To make matters even more difficult, there is a rock-hard stubbornness that prevents the Postal Service from admitting this situation exists. Instead, they contend that service has improved and costs have been cut. This is utter nonsense. I would like the committee to consider a few simple facts:

Jobs have not been filled as they become vacant.

Many collections of mail, particularly on weekends, have been eliminated.

Window hours have been shortened, and much window service on Saturday has been eliminated.

Business areas in many cities have had Saturday deliveries eliminated.

The forwarding of mail has been reduced.

Postal employees have been forbidden to deliver a package a second time, even though the recipient has promised to be home.

This is not postal service, but postal disservice.

This country simply cannot afford to keep paying first-class rates for a second-class mail system. Since the pony express brought this country together in the days of the frontier, a viable mail system has been one of the bulwarks of our political, social, and economic unity.

The present situation cannot continue, and I don't believe it has to. H.R. 15511 would provide an excellent beginning for general improvements which must be made in the whole postal system. This bill would accomplish the following:

Provide for annual authorization by Congress of not more than 20 percent of the Postal Service operating budget as a public service subsidy.

Provide for changes in the structure and operation of the Postal Rate Commission.

Place the Postal Service under the Administrative Procedures Act. This would provide a regular mechanism for advance notice of proposed changes in regulations. And, if necessary, formal hearings.

Amend the statutes governing the postal monopoly of letter mail to provide specific statutory exclusions for items which have historically been suspended from the statutes—such as magazines and newspapers, checks and financial documents going to and from financial institutions, documents accompanying packages, and other items.

Provide the right to transfer for an employee in the postal career service to any other position in the Executive branch after one year of service.

Give the Postal Service the right to represent itself in court without prior consent of the Attorney General.

I appreciate the committee's indulgence, and I am grateful to have had this opportunity to bring to your attention a matter of major importance to me and to my constituents in the 12th District of New Jersey.

STATEMENT OF HON. BO GINN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. Chairman and Members of the Subcommittee, I would like to thank you for the opportunity of presenting this statement to become part of your deliberations regarding the U.S. Postal Service. I will be brief. I will not attempt to recite a laundry list of examples of how our mail service is deteriorating. The Subcommittee knows better than I the fact that we have a critical problem.

It is apparent to me that the nation's mail service seems destined to collapse under the weight of higher costs and administrative nightmares. Anyone who mails a letter today has to do so with a silent prayer that it will reach its destination in this decade if at all.

I believe we are faced with this situation because postal reorganization has simply not worked. We are trying to run the postal service with a board of private executives who have little practical background in the rapid movement of mail. Postal service employees are doing the best job they can, but they are caught in the red tape from Washington.

I am continually bombarded with complaints from constituents who have problems with mail delivery, but I have to tell them that the Congress has no control or jurisdiction. Under the current law, a local postmaster must consult his superiors before he is allowed to even talk to a Member of Congress. With our current system, we have higher costs and poorer service. I believe we should return the Postal Service to the control and jurisdiction of the Congress and its process of review, and I ask the Subcommittee to give favorable consideration to legislation to accomplish that goal.

Thank you.

STATEMENT OF HON. DAVID G. TOWELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

On the 28th day of February, one of my constituents deposited in a mail drop box in Sparks, Nevada, a Sales Tax Report, properly addressed and bearing the proper amount of first class postage. The time was approximately 4:00 p.m. and the information posted on the drop box indicated that the mail is collected at 5:00 p.m., daily. The envelope, however, was postmarked by the Post Office on the 6th of March, resulting in sales tax late filing penalties to my constituent in the amount of \$254.69. The preceding account, which was told to me by a Reno attorney, is only one of many complaints which I have received from angry Nevadans who are totally dissatisfied with the service—or rather lack

of service—they receive from our United States Postal Service. As another Nevada attorney stated in a letter to me, "For the last two or three years our mail service has deteriorated in this part of the state to the point that it is absolutely ridiculous." He was referring to a letter mailed from Tonopah, Nevada on the 17th of August taking until the 11th of September to arrive in Reno, Nevada, as well as other frequent experiences he had had with mail from his office taking four days to arrive in the office of another attorney one block away. Even letters mailed at the Post Office take three to four days to arrive in the post office boxes across the building. This Nevada further states that he has now begun to send his secretary to personally deliver many important documents, at a cost to him of valuable time and money.

I have in my office a copy of the Postal Service's Service Standards. First class mail designated locally is purported to be delivered overnight, with 600-mile distances taking two days and delivery anywhere in the nation in three days. Written at the bottom of the page is a quote from Postmaster General Klassen, in announcing the standards, and it says they "are the maximum delivery times for each class of mail—not the minimum. Our overall objective continues to be to move as much mail as we can in the fastest possible time." What has happened to these service standards? As another one of my constituents has said, "It seems that every time the rates go up the service gets worse." This leads us to another of the many complaints I receive—the increased rates.

One would expect that the more one pays for a service, the better the service would be. However, this does not hold true for the U.S. Postal Service. Many of my constituents admit they would not mind paying the additional postage if they could expect and depend on good service. But in view of the fact that the service is continually deteriorating, I can certainly understand their anger. As another constituent put it, "We pay increasing mail rates for increasingly unacceptable mail service." But of course there are the many people living on fixed incomes, who are already the most severely hit by inflation, who are forced to pay more money for increased rates, and yet who still fail to receive their social security checks on time.

These are not all the complaints, however. It seems that frequently mail destined for Las Vegas, Nevada and properly zip coded, is misrouted to Las Vegas, New Mexico at a considerable expense of time to the sender and recipient. Although this error is certainly uncalled for, I must admit that I was better able to understand this mistake than I was the occasion where mail destined for Carson City, Nevada, in the Northern part of our state, was misrouted through Las Vegas, New Mexico.

All of the complaints I have mentioned thus far have been regarding first class mail, but I feel that I must also make known the complaints I have received relative to parcel post. In addition to many reports of lost packages, one constituent told me the story of three packages mailed to her in Reno all on the same day. One arrived in about three weeks, another came a month later, and the third arrived two weeks after that. I have received complaints regarding the practice of raising the rates for post office boxes on a quarterly basis, rather than on the yearly basis that the contract to keep the box is negotiated; complaints regarding the Postal Service's competition with stationery stores by selling products—and charging no sales tax—on items sold in stationery stores by men who make their living selling these products; and complaints about the excess money spent on full-page advertisements in national newspapers while charging the taxpayer 2¢ more to mail a letter. Yes, as is stated in a letter I received from Henderson, Nevada, "There are as many complaints as Carters has pills."

Mr. Chairman, I strongly urge that measures be taken immediately to remedy these deplorable situations which are causing undue hardship to millions of people throughout the country. The U.S. Postal Service was created to provide a service to the people of this nation. Once it has been determined that this service is not being adequately provided—and I think we have determined that it is not—corrective actions must be taken. It is my sincere hope that these oversight hearings will result in such corrective actions.

STATEMENT OF HON. PETER A. PEYSER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I am pleased for this opportunity to testify again before the Postal Services subcommittee. It was my hope that in the year and three months

since my last testimony here, I would hear of improvement in the mail services in my district. Unfortunately, the situation seems to have deteriorated even further. My files are filled with letters from constituents who say that their postal service—and many of them use the last word advisedly—has never been worse.

Let me share with you a few examples:

A constituent wrote that invitations which he mailed on January 8 from New York City for a function on January 19 arrived in Yonkers, New York on January 24. The invitations took over two weeks to travel only ten miles, or, alternately, we can say they travelled at an average speed of one half mile a day.

Another constituent complained that workshop programs arrived a week after the Workshop was held, even though they were mailed two weeks early. The agenda for the program, which concerned "crisis intervention," had received widespread praise from the medical profession.

Another constituent fared somewhat better. It only took the postal service 11 days to deliver a letter he sent from New York City to Hartsdale, New York, 15 miles away.

A businessman in my district, tired of receiving mail from local towns a week after it was posted, has started picking up his mail at his own expense.

Others report loss or severe delay of social security checks, and packages left on their doorsteps when no one was home.

Many of these and similar complaints seem to be given only a cursory processing by the Postal Service, without any resulting changes.

I am sure that the members of this subcommittee are familiar with the numerous articles on the Postal Service which have recently appeared in many newspapers and magazines. They represent a staggering indictment of the Postal Service. Included among the charges: the subsidization of bulk mail users at the expense—in both money and time delays—of first-class users; a 14-23% decline in average first-class mail delivery time since 1969; the rigging of performance tests; an atmosphere of distrust and secrecy at the highest levels; lack of special service for air mail and even special delivery letters; the continued use of obsolete and inefficient technology; the apparent tendency to give out major contracts to friends of officials; and \$140 million in contract cost overruns, including \$128 million on contracts not bid competitively through formal advertising.

The letters I receive from my constituents would tend to confirm many of these charges. It is not surprising, then, that one of my constituents wrote, "Officials at American Can must have jumped for joy when Postmaster General Klassen moved to the Postal Service."

Now I certainly do not wish to lay the blame for the lamentable quality of postal service in this country at the feet of any single person. The reasons are no doubt complex. But, clearly, something must be done. The American people deserve better.

It is particularly galling that postal service has not improved even though the public is now spending considerably more for postage. I urge the subcommittee to report favorably on any legislation which will make the Postal Service more responsive to Congress and to the American people.

STATEMENT OF HON. JAMES A. HALEY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF FLORIDA

Mr. Chairman and members of the subcommittee, I would just like to express to the subcommittee on many of my constituents' and my behalf our dissatisfaction with some of the service that the United States Postal Service is providing—and, some it is not providing—and our hope that the hearings being conducted on H.R. 15511, will lay the foundation for meaningful improvements in the quality of service provided by the Postal Service.

As you are well aware, for many years the declining quality of service by the Post Office Department was like the weather—people talked about it but no one did anything about it. In the mid-1960's the mail service in the United States became so inadequate that even Washington, could not ignore the problem any longer. Out of this swirl of dissatisfaction the Postal Service was created as the panacea for the problems which plagued the old, tired Post Office Department. After three years, millions of dollars and many late arrivals of letters later, we find the Postal Service like the fellow who takes a step forward and two back. At such a rate it is impossible to go anywhere but backwards. This trend is going to have to be turned around to meet the present and ever increasing needs of the people.

At a time when we expect speedier mail service, the service is many times much slower than in years past and definitely more erratic. We know of this deterioration in service through many letters and personal conversations with constituents as well as from our own experience communicating through the mails from Washington to Florida and return.

The responsibility for seeing to it that the spirit of getting the mail delivered promptly is not a withering objective with postal employees but is alive and well with all members of our Postal Service lies squarely on the shoulders of the top level management within the Postal Service. And, I hope that action by this Subcommittee and the Congress will lead to a marked improvement in the performance of those in executive and management positions within the Postal Service.

It seems to me that the provisions of your bill, H.R. 15511, which would give the Postal Rate Commission greater authority are positive steps and should, at a minimum, be implemented to add an objective view to the operation of the Postal Service.

However, I do not believe that if we are to continue to maintain the feeling of the people that their Postal Service is responsible to them and the feeling among Postal Service employees that they are not just part of some corporate conglomerate whose only function is to make a dollar, then the Congress cannot totally sever its influence over how the mail delivery in the United States is performed. Right now with virtually no review of activities of the Postal Service by an authorization Subcommittee of the Congress, the only time the Congress can make its views felt on the Postal Service is through a rather perfunctory appropriations process.

Giving the Postal Rate Commission greater authority is one means, and a rather good one I believe, to provide an independent critique of the Postal Service without having the Congress getting back into the business of setting rates and making decisions better left to such a commission. The shareholders in this instance of this once highly touted quasi-government corporation are the public and they are demanding more results and do not really care how those results are achieved—just that they are achieved soon, and without setting exorbitant prices to get a piece of paper moved from one location to another in a timely manner. It seems to me that the Commission, if given adequate powers in dealing with the officers and employees of the Postal Service, could help straighten out the current unresponsiveness to the needs of the people and ill-management by top level management at the Postal Service.

Mr. Chairman, I commend you on tackling the very intricate issues associated with solving the problems facing the Postal Service and all the people of the United States who yearn for the day when they will have a mail delivery system which is speedy and accurate in the finest traditions which have been at times associated with the postal system of this country.

STATEMENT OF HON. LIONEL A. VAN DEERLIN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CALIFORNIA

Mr. Chairman, members of the subcommittee; the mail still gets through; the question is when—and at what cost.

My home district in San Diego County offers an interesting case in point. While San Diegans generally can expect overnight delivery of their mail from across the country, from cities like New York and Washington, it often takes two days for letters dispatched in San Diego to reach Los Angeles, only 130 miles away.

The fault is with the present emphasis on centralization and automation, refinements that at this stage are both a bane and a blessing. While it is indisputable there has been some payoff in greater efficiency, the huge "factories" serving as mail handling centers in our larger cities have spawned some new problems. Sometimes, I gather, the mail just gets lost in these vast places. And the regional centers themselves have imposed a certain rigidity on postal operations causing the sort of snags that are impeding mail deliveries in Los Angeles.

There is a considerable volume of first-class mail from San Diego, California's second largest city, to Los Angeles, the biggest—about 125,000 pieces a day. At present, more than three-quarters of this mail—76 percent—is shipped by truck to a terminal near the Los Angeles civic center; from there it must be processed and redispached throughout the Los Angeles area, a time consuming process that often sets back deliveries by a day or more.

As I see it, there is really no reason for these snags. It is possible the Postal Service moved too fast in implementing the regional mail handling concept. I'm sure the mail from San Diego would go through more expeditiously if there were more flexibility in assigning drop-off points along the way. By the time the mail trucks reach the Los Angeles terminal—a three-hour trip from San Diego—it's frequently too late to get the mail out to local stations that same morning. Letters and packages from the east get faster service because they are air-shipped into San Diego in time to make early morning delivery schedules.

I'm sure many of our colleagues have advised the Subcommittee of similar difficulties afflicting postal service in their own areas. It is now evident that Congress must regain a measure of control over the Postal Service, if the public is to be fully and fairly served. It is not realistic to expect the Postal Service to pay for itself by 1984, as stipulated in existing law. Subsidies should be continued indefinitely beyond that year; postage rates will continue to soar, if the congressional commitment lags. As it is, user rates are inequitably distributed, with too much of the burden falling on first-class mailers. We need annual authorization bills and a generous level of subsidies to fully meet our own responsibilities for maintenance of a viable postal system.

STATEMENT OF HON. HENRY B. GONZALEZ, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF TEXAS

Mr. Chairman, I want to commend you for holding these very important hearings on amending the Postal Reorganization Act of 1970, and I want to thank you for giving me the opportunity to appear before you and other members of the Committee to express my views and those of some of my constituents with regard to the U.S. Postal Service.

Back in 1970 when the Postal Reorganization Act was debated in the House, many Members expressed mixed feelings with regard to the legislation, but there had been a strong hue and cry for postal reform which perhaps convinced many of us, myself included, to vote in favor of the measure.

However, since that time a number of personal contacts I have had with the Postal Service and the letters I have received from my constituents have confirmed my doubts of 1970; the newly reorganized Postal Service is not serving the country as it should. It appears that the Postal Service is more concerned with its balance sheet than it is with doing its primary job—delivering the mail.

During the debate on the Postal Reorganization Act, it was emphasized that one of the main purposes of this legislation was to make the new Postal Service responsible for providing efficient and economical mail service at reasonable rates to all parts of the United States. This reorganization was intended to bring efficiency to the system while reducing rates. However, we all know that this reorganization has produced just the opposite effect. Every citizen who uses the postal service knows that the service has steadily declined—some even feel it is at the worst stage in history—and they could be right. For example, we have seen reduced pickups from postal boxes, Saturday deliveries reduced, and a number of cities that used to receive two mail deliveries daily in the business district find this service cut back. And while the mail service has become slower and less dependable, the cost to the user has skyrocketed, not only through postal rates but through subsidies.

First class postage rates have gone up 66 $\frac{2}{3}$ percent since postal reorganization took place four years ago, and since March of this year first class rates have gone up 25 percent. And in spite of these increases, Congress is still subsidizing the enormous postal deficit with tax money.

I certainly realize that the Postal Service will have increased costs since it is labor intensive and wage increases and adjustments are necessary. However, I am aware of other expenditures by the Postal Service that I don't believe are justified. For example, I understand that this past year the Postal Service spent \$2.5 million on advertising and publicity. This figure seems absurd since every American knows the function of the Postal Service and knows where to go to mail a letter or package. And if the money was used to boost their image, it was wasted, since it is difficult to try and convince people that they are getting good service when it takes them three days to receive a letter from across town.

At this time, I would like to share with you a few of the comments I have received from constituents and others around Texas, regarding their experiences with the Postal Service.

One woman in my district wrote and included several envelopes on which she had marked the time it took for those letters to be delivered. One letter took six days from Augusta, Georgia to San Antonio, Texas, and another took nine days from Big Spring, Texas to San Antonio, a distance of several hundred miles, all first class mail properly addressed.

A manager of a business service in Tyler, Texas, wrote me that a slow-down in the mail service has hampered their business, especially in the mailing of their payrolls to their branch offices throughout the state. The manager states that it is not uncommon to take one whole week to get mail from Tyler, Texas to Corpus Christi, first class, and five days to get local mail delivered in Tyler.

With regard to parcel post service, the Tyler manager states, "we have had to resort to commercial bus lines and private carriers."

Since I prepared this statement, Mr. Chairman, I received another interesting letter from one of my constituents and I would like to include it as part of my testimony.

Mr. Chairman, I am sure that no one anticipated the change over from the U.S. Post Office Department to the U.S. Postal Service to be easy, but I don't believe anyone expected a catastrophe either.

It is obvious that we must now take congressional action to rectify the serious situation confronting our postal system. The recommendations included in Chairman Hanley's bill, H.R. 15511, are a step in the right direction, and I commend him for his efforts.

The Postal Service is pursuing the wrong goal as its primary task. It appears to be going after the goal of self-sufficiency at the expense of what I believe is its more important responsibility—providing good mail service to the people of the United States.

A postal service that is fast and reliable has been a prime responsibility of the government since the Constitution was written and I don't see any reason why this responsibility should be abrogated after almost 200 years. Therefore, I feel that the section in Chairman Hanley's bill which would eliminate the mandate that the Postal Service reach a virtual "break-even" point by 1984 is logical under the current circumstances and would serve the best interests of the American people. Also, by providing a public service subsidy of up to 20 percent of the Postal Service operating budget, as is recommended in H.R. 15511, we will be supporting a service that is vital to the public.

A number of the other features in H.R. 15511 are equally important in that they would reduce the current self-regulating aspect of the Postal Service which I strongly support. These features would make the Postal Rate Commission's decisions on rates final, rather than subject to approval by the Postal Service Board of Governors, require Senate confirmation of Postal Rate Commissioners, and remove the Commission's budget from the Postal Service budget.

I would recommend that even stronger measures be considered to make the directors of the Postal Service more answerable to the public and Congress. I am not sure exactly how this should be accomplished, but I do feel it is necessary in view of the many stories that have surfaced with regard to the Postal Service and the activities of its officers.

I know that the Chairman and Members of this Subcommittee realize that the American people are waiting to see what Congress is going to do, to improve the mail system. This one area in which our actions can help restore confidence in Congress and assure our constituents that we are working for the best interests of all of the people. We need to get the Postal Service back into the business of delivering mail efficiently and promptly, and not only bring this service back to the level we had in 1970 but better. I will work with the Subcommittee and will support your efforts in achieving this goal in the most expeditious manner possible.

SAN ANTONIO, TEX., August 13, 1974.

DEAR CONGRESSMAN GONZALEZ: Thank you for your newsletters. One of them stated you want to re-vamp the Post Office Dept. I hope you can do something about the poorest mail service and slowest we have ever had.

Recently I wrote my cousin in Mobile Ala. around 700 mi. from here. I mailed the letter, telling her when I was coming, Tuesday. We left San Antonio Friday and drove through and she rec'd. my letter Saturday. Now if I can drive it in a day why should it take so long for a letter to go—Tuesday to Saturday.

Also my son is in Germany & I used to get his letters—via Air Mail in 3-4 days—the last 2 I rec'd—one postmarked Aug. 5, rec'd Aug. 12—the next post-marked Aug. 7—rec'd today, Aug. 13. This is very poor service.

Also have you been in our main post office recently? I was absolutely shocked one Sat. I went down to mail a package. They had closed the large big window section; had 2 little dinky windows open on the long hall side. And they want to build a new post office. What for? I have no kick with our carriers, it's that system. Go get 'em!

GENERAL TELEPHONE & ELECTRONICS CORP.,
Washington, D.C., September 11, 1974.

Re H.R. 15511.

Hon. JAMES M. HANLEY,

Chairman, Subcommittee on Postal Service, House Committee on Post Office and Civil Service, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing this letter on behalf of General Telephone and Electronics Corporation and its affiliated telephone, manufacturing, research and service companies to urge that Section 7 of H.R. 15511 be amended to specifically exclude "intra-corporate correspondence" of any kind (including correspondence between corporate affiliates filing consolidated tax returns) and "data processing materials" from the definition of the word "letter".

General Telephone and Electronics Corporation (GTE) is the parent company of more than 60 communications, manufacturing, research and service subsidiaries with operations in 40 states and 18 countries abroad. One subsidiary, GTE Data Services, provides data processing services to the GTE telephone operating companies from its regional centers. Because of the national and worldwide scope of GTE operations, the GTE companies rely heavily on the mail for internal communications including communication with other GTE affiliated companies.

Because of the frequent need for rapid transmission of time-sensitive "intra-corporate correspondence" between GTE companies and of "data processing materials" to and from various processing centers—a need that cannot now be met by the Postal Service—GTE companies must resort to special courier services or company employees to carry such items.

In amending the Private Express Statutes, H.R. 15511 would, inter alia, undertake to define the word "letter" very broadly and then state certain specific exceptions to the definition. H.R. 15511 does not, however, include "intra-corporate correspondence" or "data processing materials" generally among the specific exceptions. Preservation of such exceptions might thus become a matter of administrative grace.

As you are no doubt aware, the Postal Service has recently proposed amendment of its regulations (39 CFR, §§ 152, 310 and 320) to broaden the definition of the word "letter" to include, inter alia, "inter-office communications" and "data processing materials" [See 38 Fed. Reg. 17512 (1973) and 39 Fed. Reg. 2968 (1974)]. However, with respect to inter-office communications transmitted between offices of the same company (not including separately incorporated but affiliated companies) that are delivered within twelve hours or by noon of the addressee's next business day, and, "data processing materials" that are delivered to a processing center within twelve hours or by noon of the addressee's next business day, and, if data processing work is commenced on such materials within thirty-six hours after their receipt at the center, the Postal Service proposes to "suspend" the prohibitions of the regulations to enable private carriers to carry such items, and, further to disable itself from revoking such suspensions. The Postal Service is apparently awaiting the outcome of the Subcommittee's hearing on H.R. 15511 before it promulgates its proposed regulations.

The Postal Service's proposal—rather than being a liberalization—is an unnecessary extension of the postal monopoly and should be rejected. Historically, "intra-corporate correspondence" and "data processing materials" have not been considered to be "letters" under the Private Express Statutes. As noted above, "intra-corporate correspondence" and "data processing materials" are often in need of rapid transmission which is beyond the present capabilities of the Postal Service. Even the Postal Service recognizes that there would be little adverse financial impact on it if it permitted private companies or corporate employees to carry such items (38 Fed. Reg. 17512 [1973]). Moreover, to the extent that certain "intra-corporate correspondence" and certain "data processing materials" may not be time-sensitive in nature, it is likely that businesses will rely on the Postal Service for delivery of such items, since the Postal Service generally provides adequate and inexpensive service in such circumstances. Accordingly, we can

see no justification at this time for bringing any "intra-corporate correspondence" and/or any "data processing materials" within the meaning of the word "letter" as would be the case if H.R. 15511 is enacted in its present form.

If at some future time economic considerations were to dictate that the postal monopoly be extended to include all types of "intra-corporate correspondence" and/or "data processing materials", it should be up to the Congress and not the Postal Service to reach that conclusion on the facts then available. H.R. 15511 as it presently reads would delegate the responsibility for such decision to the Postal Service which, because of its own interests, can hardly be expected to make an unbiased decision, even after Administrative Procedure Act type proceedings.

Alternatively, if the Subcommittee were to determine not to grant a blanket exemption to "intra-corporate correspondence" and "data processing materials", we would request that a more limited exemption be specifically written into the statute. This would include providing specific exemption from the prohibitions of the statute for: (i) "intra-corporate correspondence", including correspondence between corporate affiliates who file consolidated tax returns, if transmission is completed within twelve hours or by twelve noon of the next business day; and, (ii) "data processing materials", if transmission to and from a processing center is completed within twelve hours or by twelve noon of the next business day. With respect to any exemption granted to "data processing materials", we would oppose any limitation of the exemption to require that work be commenced on the materials within a specific period of time after their receipt at the center. In the case of GTE, any such requirement would reduce the flexibility of our data processing companies to handle varying workloads and could result in increased expenses to our telephone companies, and, ultimately, in increased costs to telephone customers.

Respectfully submitted.

WILLIAM MALONE,
Vice President.

PROPOSALS TO AMEND THE POSTAL REORGANIZATION ACT OF 1970

WEDNESDAY, DECEMBER 11, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL SERVICE,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 210 of the Cannon House Office Building, Hon. James M. Hanley [chairman of the subcommittee] presiding.

Mr. HANLEY. Today marks the last day of hearings during the 93d Congress on H.R. 15511 and related proposals to amend the Postal Reorganization Act of 1970.

We have many more witnesses who have expressed an interest in testifying. Unfortunately, the heavy schedule imposed upon us during the last few months has required that we hold fewer hearings than we had originally planned. We will accept statements for the record, however, and we expect to hold a few additional days of hearings early next year.

H.R. 15511 contains many elements, the most important being an authorization for increased subsidies to the Postal Service. I feel strongly that such subsidies are not only necessary but desirable. The Postal Service is a unique communications network which is of incalculable importance to our economic, social, and cultural life. While I feel that the users should pay a substantial share of the costs, I also feel that it is the best public policy to provide large and continuing subsidies from the general treasury to help keep rates at a relatively reasonable level and still maintain a high quality of service.

While on the subject of rates, I would also like to comment briefly on a recent statement by the Postmaster General that an additional temporary rate hike is likely by July 1, 1975. The rate hike, however, cannot come until the Rate Commission and the Board of Governors establish new permanent rates. This is because the Postal Service has already established temporary rates which are close to or at one-third of the current permanent rates in most rate categories. Thus, the current rate case would have to be completed by March 23, 1975 in order for a substantial temporary rate increase to be placed into effect by July 1, 1975. It is anyone's guess whether or not the Rate Commission will complete its work by March.

As you know, during this Congress this committee has had intensive hearings both in Washington and in major cities across the Nation related to the plight of the U.S. Postal Service, its status, and its problems. Further, you are acquainted with the legislation which acts

as a vehicle for these hearings. The intent is to hopefully eliminate or at least alleviate some of the many problems existent within the U.S. Postal Service as a result of the implementation of the Postal Reorganization Act of 1970. Through the course of these 18 months or so the committee has developed a fine background, which is going to enable it to clarify and make better the new version of H.R. 15511. It is fair to say we have very serious problems within the system.

We are advised that the current fiscal year deficit is somewhere in the neighborhood of \$500 million; and the projection for fiscal year 1975 advises that the deficit will be somewhere in the neighborhood of \$800 million.

The Postal Rate Commission has yet to dispose of its pending matter; that is the temporary rate structure under which the USPS is now functioning. It is hoped that the Rate Commission will terminate its activity and make its decision in the month of March of next year. In recognition of the fiscal problem of the USPS, it is fair to assume that it will become necessary for the Postmaster General to offer another proposal, which would have the effect of raising the rates of all classes of mail.

One of the fundamentals contained in 15511 is a subsidy provision. If this amendment is approved and enacted into law, the USPS could enjoy a subsidy up to 20 percent of its public service costs. I am a proponent of this feature because I am sure that the traditional concept of mail service in America cannot endure without assistance of this subsidy because of the continuing increase in rates.

High postage costs have forced out of business thousands of publications that have long been the pipeline between the American citizen and what is happening in their government. Going back to the very Constitution, our forefathers, when they wrote that document, were somewhat emphatic with regard to the part the U.S. Post Office, as was then described, was going to play in our economy and our society. The fundamental premise was that ultimately we would enjoy the best standard of living in the world community. It was thought that to accomplish this, we had to have a informed citizenry. The best way of accomplishing this was to assure a free flow of print material into the homes of all Americans, regardless of what their economic or social status was. It has worked quite well through these almost 200 years.

Well, I am confident that the Congress is not going to move in a direction which would preclude the possibility of that traditional free flow of information. The committee and this Congress and the previous Congress conducted 21 days of hearings specifically on rates and documented the jeopardy that so many publications would be in if they continued to be subject to the rate increases. These rate increases are necessary because of inflation and the mandate imposed upon the USPS through the Postal Reorganization Act of 1970 which would have it become self-sustaining.

So, it is obvious that the Congress mandated the self-sustaining break-even concept. Therefore, it is essential the Congress shift gears, take another look, and relieve that burden from the USPS. I am confident that early in the 94th Congress we will be in a position to move with a number of amendments to the Postal Reorganization

Act. They will be substantive in nature; and with their enactment into law, we will provide those charged with the administration of the U.S. Postal Service better tools to meet the challenge which is theirs.

Having said that, and before introducing the first witness, I am going to defer to the ranking minority member of the committee, Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

I am completing my 11th year in Congress and I believe my 10th year on this committee. It is with a very wonderful experience. I think it is a fine committee to have served on. I am one of the architects of the Postal Reorganization Act, along with Mo Udall and some of the rest. I think it was a great idea when we did it. I think it is a splendid idea still. I think we cannot take back and run the postal system.

Therefore, although I could probably transfer to another committee by reason of my seniority, I am going to remain on this committee. I want to join with you in trying to make the system work. I want to join with you in the proposed amendments that you have to strengthen the corporation and I agree with you that we must preserve the public service concept of the postal system, which we erroneously tried to destroy. I believe as a result of your hearings, and with what we could well do in the coming session of Congress, that we will bring on some amendments to the act, which will make possible the type of very great postal system that we envisioned when we passed the Reorganization Act 2 years ago.

Mr. HANLEY. Thank you, Mr. Johnson. We have an excellent slate of witnesses this morning. I am confident that each of them is going to contribute measurably to the deliberations of this committee.

I am going to call upon our friend and colleague, Congressman Bob Sikes, of Florida, to introduce our first witness.

Mr. SIKES. I have with me Mr. Art Gottily, who has a problem of particular importance to him and a problem which relates to others also, as will be brought out in just a few moments, and also with me my legislative assistant, Mr. John Allen.

Before getting into Mr. Gottily's case, Mr. Chairman, let me say I listened with interest to your statements and those of Mr. Johnson. I congratulate you and the members of your committee and the staff for the inquiries you have made into the very important problem of adequate postal service and the effort to slow down—at least slow down—the constantly increasing cost of postal service to the American people.

I think we are all disturbed about the present situation. While it was stated we should make every effort to have the present system work, and work effectively and work economically, there is a growing sentiment that we should return to the old system, just because this one doesn't seem to be working satisfactorily.

That's unfortunate, because the mail service is, essentially—a good mail service is essential to the American public. I have great hopes that your inquiries which have been so well and thoroughly conducted are going to help define the answers that are needed.

So, I wish you well in the continuation of this work in the next Congress.

We all appreciate the contributions that this committee has made in many areas in Government; and you, in particular, Mr. Chairman, have distinguished yourself by your outstanding service to the Nation in the Congress; and I have been very happy to watch your fine progress in Congress.

Mr. HANLEY. Congressman Sikes, if I may express my appreciation for your kindness to us this morning. I feel I would be remiss if I didn't comment and commend you for the keen interest you have evidenced in the USPS. In our many, many conversations on the floor and otherwise you have done this. I appreciate your interest and your willingness to support our efforts. It is a delight to have you with us this morning.

Mr. SIKES. Thank you, Mr. Chairman.

Mr. Chairman, as I indicated earlier, I bring to you a problem of an individual; but it is a problem that is general and it affects many people; and I think it is one that should be called to the attention of this committee.

We know you have many witnesses and much work to do. We will be brief.

I'm going to introduce to you Mr. Art Gottily, the owner-manager of the Consolidated Check Dispatching Service. This is a cost-saving system for moving checks from writers to payees. The charge is 5 cents for each check which is accepted.

On September 20, 1971, Mr. Gottily wrote to Mr. Craig of the Office of the General Counsel of USPS to seek an official opinion regarding the legality of this service. All of this is in the file which has been submitted to your committee and is available for your information.

Mr. Gottily's letter described the CCD system in detail and stated that the business wouldn't go into operation until an official legal opinion was received.

On October 26, 1971, Mr. Jack DiLorenzo, Assistant General Counsel, answered the September 20 inquiry; and the thrust of Counsel DiLorenzo's reply, which is included in the material before you, was that the CCD system is a lawful enterprise inasmuch as the statutes do not classify a check to be a letter. Therefore, checks and their accompanying bills are deliverable by private carrier.

Since receiving clearance to proceed, the service—CCD—has grown steadily over a 3-year period. Although it is a small operation, it is an important one to this gentleman and his family and it is typical of other similar business enterprises. The operators were disheartened to learn in October of this year that a proposed amendment to the private express statutes was being considered, which, if ratified, would disenfranchise the Consolidated Check Dispatching Service.

It is their belief and the opinion of the attorneys that they have consulted that the proposed amendment is discriminatory against CCD. This is demonstrated in the section which would apply the nonletter designation to a check only if the check is delivered to, from, or between financial institutions. My purpose for being here, and Mr. Gottily's purpose for being here, is to request that your committee leave the wording of the private express statutes in the current form which reasonably states that checks are not letters and hence may be conveyed by private express. This, of course, would insure this company's right and that of similar enterprises to operate. It would also

permit the continuation of cost reduction, which accrues to any segment of the public served by CCD. This service can operate more economically, more efficiently, than the mails operate, and it takes a little bit of today's heavy mail load off of the mails. Therefore, we feel that it should be allowed to continue.

With that background, Mr. Chairman, I am going to ask Mr. Gottily with your permission, of course, to add anything that he wishes.

Mr. HANLEY. We are delighted to have you with us, Mr. Gottily. We will proceed.

Mr. GOTTYLY. Thank you, Mr. Chairman. I came prepared to read this one-page testimony to you; but my thunder was stolen by Congressman Sikes. I couldn't comment any more favorably on CCD's behalf than he has.

Mr. SIKES. That's an old trick of mine, Mr. Chairman.

Mr. GOTTYLY. I sat here ready to read this to you, but I think the case is well stated by Congressman Sikes. We have one objective: we would ask that the language of the private express statutes remain the same and that this new phrasing be removed. The phrasing in question is that "a check is a letter if it is not delivered by a bank or savings and loan institution or some other member of the financial community." Of course, this new language specifically disenfranchises CCD. This phrase, "to, from, or between financial institutions," we believe to be patently discriminatory against CCD. This new language would, frankly, would abolish CCD if it were left as it now is.

So, that's the thrust of our request, to allow the original language to remain attachment 5 of this testimony makes reference to that original language wherein it is indicated checks are not letters regardless of the nature of the sender or destination.

Mr. SIKES. The new language would indicate that checks are letters and, therefore, delivery of checks by private company would be abolished. Mr. Gottily is seeking a continuation of the situation which existed prior to the new regulation. Possibly, Mr. Chairman, you or the members of your distinguished committee would have questions that you would want to ask Mr. Gottily about the operation of his business to further clarify what he said.

Mr. HANLEY. Fine. Mr. Gottily, may I ask, has the Postal Service asked you to cease operations in the light of this new regulation?

Mr. GOTTYLY. No not in the form of an immediate "cease and desist". We learned of this new regulation in October. As a matter of fact, it was on my birthday this year. It was a fine birthday present when on October 16, I received a communication from the Counsel's office.

Mr. SIKES. Mr. Gottily, isn't it true that they have indicated to you that you can have a choice of gradually phasing out or being phased out summarily.

Mr. GOTTYLY. Yes; they have.

Mr. SIKES. To all intents and purposes he has been told he can't continue to operate. Do you want to die slowly or do you want to die immediately?

Mr. HANLEY. Of course, the proposed regulations were initially drafted in July of 1973 and were subject to hearings in October of the same year.

May I ask, were you aware at that time—

Mr. GOTTILY. No, sir; I wasn't. That's a very good question, too. We, CCD, went out of our way to make our case clear to the office of the general counsel when we conceived the idea. Then we heard nothing further along the lines of this new language that was referenced.

Mr. SIKES. Mr. Chairman, if you will excuse me, I have a committee meeting also that I must chair. I do appreciate your courtesy to Mr. Gottily. Mr. Allen of my staff will be here for the remainder of the discussion.

Mr. HANLEY. Fine, Congressman Sikes. We are aware of your schedule conflict and we are delighted that you were able to spend this much time with us.

Thank you.

Mr. SIKES. Thank you for the good work you are doing.

Mr. HANLEY. Mr. Gottily, may I ask, is your service cheaper than the other service?

Mr. GOTTILY. I have to give you two answers to that. Yes, it is cheaper but it is not quite equivalent. The word equivalent would imply same speed. CCD is slower generally than the mails. We ask that we be given at least 2 days' leadtime to deliver a local check. Presumably the Postal Service does better than that on local mail.

Mr. HANLEY. I see.

Mr. JOHNSON?

Mr. JOHNSON. How would you deliver a check to Sears, Roebuck in Atlanta?

Mr. GOTTILY. Well, we would accumulate several Sears, Roebuck checks, for example; but we would not deliver them to Atlanta. We would deliver them to the Sears, Roebuck store in Pensacola, any Sears store anywhere will take anyone's payment regardless of where a purchase was made.

So, we just make our rounds at night and go to Penney's, Sears, and so forth, making deliveries of that kind. It is a lot of hard work.

Mr. JOHNSON. I notice a check would have to be placed in an envelope which anybody would have to do if they are going to mail a check. The additional charge to the sender would be—there's a second envelope involved in which they must put the envelope into and seal.

Mr. GOTTILY. Right.

Mr. JOHNSON. An envelope will cost you 2 or 3 cents, won't it? You are not an awful lot cheaper than the 10 cents first-class mail?

Mr. GOTTILY. Well, we provide the outer, or as you say "second" envelope. CCD furnishes our customers with free supplies of outer packet-type envelopes in which they insert their checks. They deposit the packet with us. After we dispatch their checks we recycle the packet-type envelope. We advise people not to seal the outer packet-type envelope, just put a paper clip or rubber band around the outer envelope which contains one or more checks each in their separate envelope. That's the way it works.

Mr. HANLEY. Thank you, Mr. Johnson.

Mr. Ford?

Mr. FORD. Thank you, Mr. Chairman. I am a little bit confused. What is the service that you are selling?

Mr. GOTTILY. All right, sir. Can you look at attachment 1?

Mr. FORD. Yes.

Mr. GOTTILY. We simply say to you, for example, as head of your household, we would say CCD will take all of your checks that you write to a business or to an organization or to a profession, those three categories.

As we indicate on this little illustration, you would simply place those checks in an envelope, direct that envelope to us via a depository box we have—

Mr. FORD. When you say direct, do I mail it to you?

Mr. GOTTILY. No. You place it in a box. We have a couple of boxes. One means by which we obtain checks is simply a letter-drop in the door of my residence.

Mr. FORD. The only people who would use your service are people within some reasonable amount of convenience, who can go to your home and drop them in the box?

Mr. GOTTILY. Well, the range is a little wider than that. I have a few boxes scattered around Pensacola.

Mr. FORD. Are your principal customers individuals like me as head of a household?

Mr. GOTTILY. Yes, sir.

Mr. FORD. What businesses?

Mr. GOTTILY. Principal customers are heads of household. We do have a few business customers. There is a third means by which checks can reach CCD and that would be simply you, as head of a business, would take 20 or 30 of your checks, put them into one envelope, and send that envelope to CCD's post office box. We would, in turn, take those checks and deliver them for you; and in that case, you would, as our customer, have previously provided us with a supply of your empty, personalized envelopes. For instance, several doctors in the Pensacola area use our service. We have a supply of the doctors' personalized empty envelopes. After receiving the doctor's checks, we place each check in one of his own envelopes, and deliver them for him.

Mr. FORD. When you are delivering them, what portion of your delivery is made by mail?

Mr. GOTTILY. I would have to give you an estimate on that. I would say probably 15 percent, something of that nature.

Mr. FORD. If only 15 percent of your volume is done by mail, how could the mail regulation have that much impact on your business?

Mr. GOTTILY. Well, the proposed regulation will not allow us to deliver checks. We deliver checks by courier and "deliver" is a key word. The new regulation says that a check is not deliverable by private express, which CCD is; and 85 percent of our checks are delivered by courier. Most of them are local and they are delivered by us at night. You are probably thinking how do we deliver them at night after businesses are closed. We simply slip them under the door or in a letter drop. We do not use the mailbox.

Mr. FORD. Is this a profitable business?

Mr. GOTTILY. No, sir; not now. We are not making a profit now. We have shown improvement over the years. We have been at it for 3 years and we are showing a nice improvement, but we are still a long way from making a profit.

Mr. FORD. Thank you.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. Derwinski?

Mr. DERWINSKI. Mr. Gottily—in addition to your operation, are there any other identical or very similar firms scattered across the country?

Mr. GOTILY. I have been asked that before, sir. As far as I know, I don't think there are any. I conceived the idea of CCD. I am owner, operator, inventor, promoter, and any other thing. I don't know of any.

Mr. DERWINSKI. You create this idea—if you could really make it click, you could create a brandnew trade association and we would see a lot of you here in Washington.

As of the moment, to your knowledge, you have an individual problem?

Mr. GOTILY. Yes, sir; I think we are unique in this situation. I don't know of anything else that is doing precisely what we are doing.

Now there are courier services for the banks, but I suspect they charge the banks a shade more than CCD would charge an individual, 5 cents per check. I really don't know if there are services exactly as ours in operation.

Mr. DERWINSKI. Thank you, sir.

Thank you, Mr. Chairman.

Mr. HANLEY. Mr. Traxler?

Mr. TRAXLER. Mr. Chairman, just one question, please.

Sir, what do you do with those checks for which you don't have a local branch? How do you handle that out-of-town delivery situation?

Mr. GOTILY. That relates somewhat to Mr. Johnson's—Congressman Johnson's question earlier. It is a good question. Let's say Texaco, for example, we ask approximately 6- to 8-day leadtime for an out-of-town check and hopefully within that period we will receive two, or three, or four additional Texaco checks, for example. Then we simply combine those in one envelope and send those to Texaco. That's the only simple solution we have for the situation you described.

Now again if a check is not a letter, if it remains in the nonletter category, this combining is a lawful procedure. I am fully aware this is an unlawful procedure with numerous other types of mail; letters, for example. If a check remains in the nonletter category; I think we are on safe ground there.

Mr. TRAXLER. One further point. How do you deliver that check? Are you accumulating several of them over a period of a few days? Let's assume one of your customers is making a payment within a distant city to a private person as a personal debt. What do you do with that check?

Mr. GOTILY. Let's refer to the brochure. There are three categories. We will accept checks only to three categories: Businesses, organizations, and professional. Now this situation that you describe is probably not going to fall within one of those three categories. We simply ask this person not to include that type of check.

Mr. TRAXLER. Thank you, Mr. Chairman.

Mr. HANLEY. Thank you, Mr. Traxler.

Mr. Gottily, on behalf of the committee, our appreciation for your appearance here this morning.

For the purpose of the record, would you introduce your associate?

Mr. GOTILY. I am sorry. This is John Allen.

Mr. ALLEN. I am legislative assistant to Mr. Sikes. Again our deep appreciation for your time and effort this morning.

Thank you, Mr. Chairman.

Mr. GOTTILY. Thank you, Mr. Chairman.

[The material submitted by Mr. Gottily follow:]

CONSOLIDATED CHECK DISPATCHING,
Pensacola, Fla., December 9, 1974.

HON. JAMES N. HANLEY,
Chairman, Subcommittee on Postal Service,
Washington, D.C.

DEAR MR. CHAIRMAN: Consolidated Check Dispatching (CCD) is a cost saving system for moving a check from writer to payee. CCD charges 5¢ per check accepted. (Please refer to our brochure labeled *Attachment I* for details.)

On September 20, 1971, I wrote to Mr. Roger Craig of the Office of General Counsel, U.S. Postal Service to seek an official opinion regarding the legality of the CCD system concept. A copy of this letter is attached for your information, labeled *Attachment II*. It describes the CCD system in detail, and also states that the business would not go into operation until an official legal opinion was received.

On October 26, 1971, Mr. Jack DiLorenzo, Assistant General Counsel, answered my September 20 inquiry. The thrust of Counsel DiLorenzo's reply (*Attachment III, Ref. A*) was that the CCD system is a lawful enterprise inasmuch as the Statutes do not classify a check to be a "letter"; therefore, checks and their accompanying bills are deliverable by private carrier.

Since receiving clearance to proceed from the General Counsel, CCD has grown slowly but steadily. During this three-year period, CCD operations have required essentially all of the spare time my wife and I have, as well as a substantial portion of our limited resources. Consequently, it was most disheartening to learn in October of this year that a proposed amendment to the Private Express Statutes was being considered which would, if ratified, disenfranchise CCD.

It is our sincere belief and the considered opinion of the two attorneys we have consulted on this matter, that the proposed amendment is clearly discriminatory against CCD. I specifically refer to the section which would apply the non-letter designation to a check only if the check is "delivered to, from or between financial institutions."

We therefore urgently and respectfully request that the Committee leave the wording of the Private Express Statutes in the current form, which reasonably states that "checks are not letters, and hence may be conveyed by private express. Granting this request will assure CCD's right to operate. It will also permit the continuation of the cost reduction which accrues to any segment of the public served by CCD.

Yours very truly,

ART GOTTILY,
Owner-Manager.

ATTACHMENT I

CONSOLIDATED CHECK DISPATCHING

C C D

SAVE 50% ON DELIVERY COST FOR ALL OF YOUR CHECKS SENT VIA THE C C D SYSTEM.
YOUR ONLY COST IS 5¢ PER CHECK.

C C D Accepts checks to all local and out-of-town: **BUSINESSES** (mortgage cos., publishers, utilities etc.)
ORGANIZATIONS (churches, clubs, hospitals, schools etc.) and **PROFESSIONALS** (physicians, attorneys etc.)

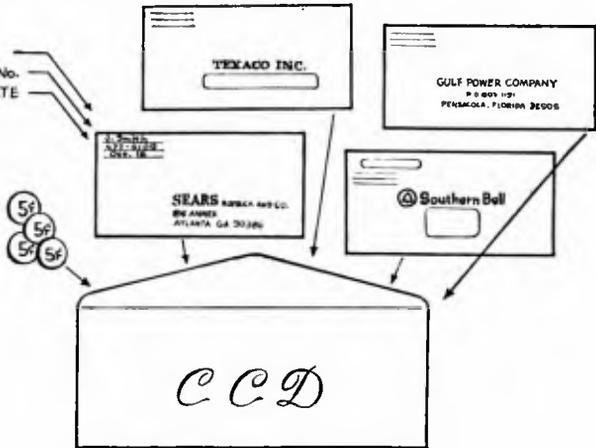
CONFIDENTIALITY IS ASSURED BY OBSERVING THE FOLLOWING PROCEDURE

STEP 1..... Seal each check in a separate envelope addressed to payee. Be certain you write your Name, Phone No. and Date Check is due on the face side of each envelope as indicated below.

IMPORTANT!

show the following on
each envelope: **NAME**

PHONE No.
DUE DATE



STEP 2..... Place all of your envelopes, PLUS 5¢ FOR EACH, into one large envelope, seal and drop in depository. Allow C C D at least 2½ days lead time for local deliveries and 6 days or more for items going out of town.

We invite your inquiry.

Consolidated Check Dispatching
6329 Harvard Court
Pensacola, Florida
477 - 4109

PENSACOLA, FLA., September 20, 1971.

Attention: Roger Craig, Esquire
 OFFICE OF GENERAL COUNSEL,
 U.S. Postal Service,
 Washington, D.C.

DEAR M. CRAIG: Mr. William H. Stafford, U.S. Attorney, Northern District of Florida, has advised me that your office is the proper place to obtain a bonafide opinion stating whether a proposed service, to be operated for profit, is in accord with the law and postal regulations.

As an expression of good faith, and to be certain the proposed service satisfies all legal criteria, we are trusting to your confidence a detailed disclosure for your assessment.

The corporation, which will be known as Consolidated Check Dispatching, Inc. (CCD) is founded on the theory that both businesses and individuals have many common creditors (e.g., utility companies, department stores, banks, credit companies, etc.) CCD would solicit the public, both individuals and corporations, to mail all of these common creditor checks to CCD. Subsequently, CCD would sort the checks according to the various creditors, then CCD would mail a packet containing numerous checks which are all payable to the same creditor. See enclosed brochure for complete details.

We have invested some money and considerable energy which has enabled us to reach a state of preparedness that would allow testing of this proposal in Pensacola. We have placed a temporary stop on this activity, however, and are withholding initiation pending your assessment.

In view of the overriding importance of your evaluation, we shall be most appreciative of a prompt and hopefully favorable reply.

Yours very truly,

ART GOTTILY.

U.S. POSTAL SERVICE,
 LAW DEPARTMENT,
 Washington, D.C., October 26, 1971.

Mr. ART GOTTILY,
 4805 North Ninth Avenue,
 Pensacola, Fla.

DEAR MR. GOTTILY: This will reply to your letters concerning a delivery service known as Consolidated Check Dispatching, Inc. (CCD) that you propose to establish to deliver checks sent by customers to pay their accounts with utility companies, department stores, banks, credit companies, etc.

In the proposed operation, individuals using your service would enclose in one envelope and mail to CCD all the checks they wish sent to their creditors. CCD would re-group all checks it receives from its several subscribers according to the creditors for whom they are intended. Packets containing checks so grouped will then be dispatched to the respective creditors either by mail or private carrier. The checks would be unaccompanied by any matter except the bills for which payments are made, and then only in those cases in which creditors require that bills be returned with payment. CCD would be compensated by the subscriber who would enclose with the checks he sends either a check payable to CCD in the amount of the fee which is four cents per check or an equivalent amount of postage.

You ask whether the operation proposed would be contrary to postal laws and regulations.

By a group of statutes collectively known as the Private Express Statutes Congress, with stated exceptions, conferred upon the Postal Service a monopoly in the delivery of letters for others. We enclose a copy of the pamphlet, "Restrictions on Transportation of Letters." Part I of the pamphlet contains the text of the Private Express Statutes as they appeared prior to July 1, 1971. Because of the enactment of the Postal Reorganization Act of August 12, 1970, Public Law 91-375, effective July 1, 1971, minor changes in wording were made in the statutes and Sections 901-906 were renumbered as Sections 601-606 of Title 39, U.S. Code. Part II contains interpretations of the statutes made by the Chief Legal Officers of the Postal Service, the United States Attorney General, and the courts. The statutes apply only to "letters." What is a letter is discussed in Section 3 on page 7 of the pamphlet.

Checks in their ordinary form are not letters. Accordingly, the operation you describe would not violate the Private Express Statutes if no messages extraneous to the checks are enclosed with them. See Section 7 on page 11 of the pamphlet.

The bills enclosed for return to the creditor would not be regarded as containing information extraneous to the checks with which they are identified if the sender makes no additions or alterations to them. Additions, alterations, advices and similar communications which the debtor places on the bills are "letters." Accordingly, if CCD subscribers enclose statements so altered with the checks, postage at the single piece rate must be paid on each statement, in addition to the postage required on the weight of the checks. See Section 25 on page 23 of the pamphlet. The same requirement would apply to matter re-grouped and dispatched in the mail by CCD in the second transmission. When the checks and accompanying bills that have been altered are delivered to the creditors by private carrier outside the mails postage at the applicable single piece rate likewise would have to be paid on each bill, but postage would not in that case be required on the weight of the checks.

Should you have any questions after carefully reading the enclosed pamphlet, we shall be glad to attempt to answer them.

We are sending a copy of this reply to Mr. John G. O'Brien, who also inquired relative to this matter on your behalf.

Sincerely yours,

JACK T. DILORENZO,
Assistant General Counsel.
Opinions Division.

Mr. HANLEY. Our next witness this morning is Mr. Francis S. Filbey, general president of the American Postal Workers Union.

STATEMENT OF FRANCIS S. FILBEY, GENERAL PRESIDENT, AMERICAN POSTAL WORKERS UNION, ACCOMPANIED BY PATRICK J. NILAN, LEGISLATIVE DIRECTOR, AND EDWARD L. BOWLEY, LEGISLATIVE AIDE

Mr. HANLEY. We are delighted to have you with us this morning. For the purpose of the record, if you would introduce your associates.

Mr. FILBEY. On my right is Patrick Nilan and on my left, Mr. Edward Bowley.

Mr. HANLEY. We are delighted to have you with us.

Certainly in recognition of the expertise which you enjoy, we are confident that your testimony this morning is going to prove quite interesting and most useful to the committee.

Mr. FILBEY. Thank you.

Mr. Chairman and members of the committee, for the record I am Francis S. Filbey, general president of the American Postal Workers Union, AFL-CIO.

I am very pleased to appear before the committee this morning.

We speak in behalf of more than 350,000 postal employees for whom we are the exclusive national representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices in all 50 States, the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

We thank the chairman and members of this subcommittee for giving the American Postal Workers Union an opportunity to express our views on H.R. 15511. We appear today to advise your honorable committee of our views concerning this pending legislation as embodied in H.R. 15511 introduced by the distinguished chairman of the committee, the Honorable Mr. Hanley of New York.

An examination of H.R. 1511 indicates that some sections of the bill require our comments.

The proposed amendment to section 1 of the bill of section 2401 (b) of title 39, United States Code, to provide for authorization of an appropriation to the Postal Service each fiscal year an amount not more than 200 per centum of the total operating expenses of the Service for the immediately preceding fiscal year, brings into focus the basic question of how should Postal Services in the United States be financed.

Your honorable committee has already heard voluminous testimony on this question.

We are not here today to take a position on the basic question raised by the legislative proposal; namely, should the user of the mails pay the full cost of handling his or her mail, or should the general public, through their taxes, pay some part of that cost?

Our position is that regardless of whence the funding comes the employees of the Postal Service shall not be denied the benefits of already established legislation, ordering comparability in wages, et cetera, with their counterparts in the private sector of our economy.

What does disturb this union is the possibility that should the Congressional decision be that there shall be greater and greater subsidies made to the Postal Service, there will eventually come the time when this union may find itself in the position that negotiations with our employer, namely, the Postal Service, may in fact be only shadow negotiations. That our negotiations, in fact, will be again with the respective appropriations committees of the Congress.

We note that the pending legislation only authorizes the appropriation of an amount not to exceed 20 percent but makes the actual percentage to be appropriated subject to action annually by the Congress.

One must assume that then the decision as to the per centum would necessarily be determined by the appropriate committees of the Congress, which may or may not be the respective Civil Service and Post Office Committees.

In short, regardless of the termination of our labor contract, we would always face an employer who could not make a binding agreement until he had his appropriation finally approved by the Congress and signed into law by the President of the United States.

One feels compelled to raise the question, "What way would that situation differ from that which existed prior to the passage of the Postal Reform Act?"

Therefore, our position as to section 1 of H.R. 15511 must be, we favor its adoption only if it is made abundantly clear that its adoption must in no way interfere with the collective bargaining situation as it presently exists between the Postal Service and our union.

We have no comments except the above concerning section 2 of H.R. 15511. We have no comments concerning sections 3, 4, 5, or 6 of the bill.

We vigorously oppose section 7 of the proposed legislation.

We do not agree that the laws relating to private carriage of letters should be changed. To the contrary, we believe that such existing laws should not only be rigidly enforced, but where necessary, should be strengthened.

We are aware that there is growing sentiment for permitting private concerns the right to engage in processing and delivery of what we call first-class or letter mail. We just heard such a witness.

We, naturally, are opposed to turning over to private sector entrepreneurs the processing and delivery of letter mail, just as we have traditionally opposed the incursion of such operators in the fields of second- and third-class mail.

We do not believe any private carrier or group of private carriers can ever serve all the people of our Nation. Thus, we are left only with the conclusion that such private sector carriers would serve only that part of the population which would return to them a profit.

Yes, they might also agree to serve that additional part of the population which would enable them to break even.

Who would serve that part of the population that would neither bring profits or break even? Obviously, the Federal Government.

Would then the Federal agency required to carry out that function be totally subsidized from general tax funds, or would a segment of the population, and only that segment, be required to pay increased postal rates?

In short, Mr. Chairman and members of the committee, it is our firm conviction that processing and delivery of letter mail must remain as the sole function of a national Postal Service.

We might further suggest, Mr. Chairman, since H.R. 15511 proposes to amend the Postal Reform Act, that your honorable committee consider amendments to that act which would make legal the right of postal employees to strike, as well as grant to the unions the right to negotiate with their employer for a union or agency shop.

To sum up, Mr. Chairman, we cannot, at this time, support section 1 of H.R. 15511 without that section being amended to make it perfectly clear that we shall, as the law presently permits, continue to have full collective-bargaining rights with our employer.

Nor can we support the legislation as long as it contains section 7 which we interpret as a relaxation of the private express statutes.

Mr. Chairman, we thank you and the members of your committee for affording us this opportunity of expressing our viewpoint concerning the provisions of H.R. 15511.

We are deeply grateful to you and your colleagues for the intense interest you have always shown for the welfare of the postal employees we have the privilege of representing.

Mr. Chairman, I might add, we just heard a witness who proposes to take over part of the delivery of what we call first-class mail, who indicated in response to a question from Congressman Traxler, if I remember correctly, that he could only handle certain kinds of mail.

It is our viewpoint if the private express—or the express statutes are relaxed that we would have many entrepreneurs similar to that who would skim off that part of the postal business from which a profit can be derived and leave the existing Postal Service or some other Government agency that may take its place, the nonprofit-making operation, which has happened to us, as you know, in the Postal Service with the operation of United Parcel Service, which does not nationally deliver parcels to every part of this country or to every citizen of this country.

We are very much opposed to any relaxation of the present statutes. In fact, we hope that some time in the future that Congress might even strengthen the existing statutes.

Thank you very much.

Mr. HANLEY. Thank you very much, President Filbey, for your very fine testimony.

As I anticipated, it is comprehensive. It certainly provides food for thought.

I want to give you this assurance this morning: that in no way is it the intent of this legislation, or for that matter the Congress, to interfere with the collective-bargaining rights now enjoyed. That is not at all the intent; and you can have the assurance of this individual that we will make it very emphatic as we proceed with this legislation that the present structure will not be jeopardized at all in that sense.

May I ask you if you could be more specific concerning the provision for public service subsidy, and specifically how would this provision interfere with collective bargaining?

Mr. FILBEY. Well, I am confident that neither you nor any present member of the House Post Office and Civil Service Committee would have any intentions of interfering with the existing labor relations in the Postal Service.

However, I am confident also that as appropriations of money by the Congress to the U.S. Postal Service increase, that there will be a greater and greater desire on the part of larger and larger numbers of Members of the Congress for greater control over the operations of the U.S. Postal Service.

If the public service subsidy is increased to 20 percent it is my understanding—and I could be wrong—that basically the legislation proposes that that would be the ceiling; however, the Appropriations Committee, or the subcommittee of the Appropriations Committee handling the Post Office budget would make the determination as to whether it should become 15, 16, or 19 percent.

If and when the Appropriations Committee moves into the field, I believe that our experience would be similar to that before the passage of the Post Reorganization Act, where the Appropriations Committee would, despite the Postal Service's need for the full 20 percent, decide to appropriate 18 or 15 percent.

How can our employer sit down and negotiate with us wage increases, fringe benefits, that obviously are going to increase his cost without knowing how much money the Congress is going to appropriate.

To be completely frank with you, I fear very greatly that in actuality, we would be again negotiating with the Appropriations Committee of the House and the U.S. Senate rather than with our employer.

I can remember the days, Mr. Chairman, before postal reform when we would—when the unions, who then had limited bargaining rights with the Postal Service—with the former Post Office Department under Executive Order 10988, when we would propose, suggest, or try to obtain from the then Post Office Department, not a pay increase, not an increase in the fringe benefits, but some proposal we would make.

The Post Office Department's standard response was, "If we were to agree to this, it would cost us x number of dollars. We cannot agree

to anything that will cost additional money because we don't know if the Congress is even going to give us the requested budget, let alone what these increased costs might be."

I don't want to get back to that. I don't want to get back to that situation. I have to say, Mr. Chairman, that I am firmly convinced that the postal employees we represent are better off under collective bargaining than under the old system which you may not like me to say, but we also considered collective begging.

Mr. HANLEY. Let me ask you this question then: In your judgment, would it be better that the Congress not pay any attention at all to the possibility of subsidy and let the present mandate endure?

Mr. FILBEY. That's a matter, Mr. Chairman, which can be argued both ways.

I am a firm believer that the users of the mail should pay for the cost. That's my personal opinion.

My union's opinion is, obviously, that we should have the right to negotiate with our employer. Where the money comes from to pay the cost of those negotiations is none of our business.

I would like to say as a taxpayer, the users of the mail should pay the costs, including our own union magazine.

Mr. HANLEY. Of course, we would like to not be troubled with this problem of the Postal Service. We would like it if it could provide the traditional quality of the Postal Service and be self-sustaining. That would be the ideal.

It's very difficult for us to crank up this overture in the light of the mandate imposed in 1970. It became quite obvious to the Congress that if that mandate was going to endure, then a lot of things were going to have to happen within the Postal Service; limitations would be placed on many of the services such as Saturday service, and the closing of a lot of post offices around the country. In addition to this, many of our publications would be placed in economic jeopardy, causing them to phase out.

I, for instance, had a conference a week ago with one of the major direct mailers who was a \$30 million postal customer per year; but because of the rate hike he has had to reduce his number of annual mailouts. As a result, that one particular operation, was forced during the course of this year to release 8,000—1,000 employees.

If the trend continues, they will continue to move in the direction of layoffs; so we are confronted with this sort of problem.

We would, as I say, much rather find ourselves in the position of adhering to the original mandate. Obviously, it isn't going to work. I understand the Postmaster General, himself, in an address before the Magazine Publishers' Association, supports the subsidy concept now. So it's not an easy thing to unravel, to try to get this train on the tracks, so as to speak.

I can only again assure you that it is not at all the intent of this committee and the intent of this committee will be transmitted to the other responsible committee associated with appropriations that it is not the intent of the current collective bargaining procedure, that it be interfered with.

With that, I defer to Mr. Johnson.

Mr. JOHNSON. Well, Mr. Chairman, I know we have five other witnesses to hear today. I think I will forgo questioning. I would like to hear all the testimony this morning if we can.

You made a fine presentation. We, of course, welcome you here this morning.

Mr. HANLEY. Mr. Ford?

Mr. FORD. Thank you, Mr. Chairman.

Mr. Filbey, one thing I would like to get your reaction to is the way the bill is drafted, this committee would have to first seek authorization for the appropriation.

There is no doubt with regard to whether it is set at a 20-percent maximum or whether or not it is tied down in that way. I view that as quite obviously an attempt on our part to force what we consider to be a less than adequate Board of Directors operating an increasingly difficult corporation, which is losing public confidence as well as congressional confidence, day by day; not by action of the employees, surely, but by virtue of the repeated mistakes and lack of attention by the absentee Board of Directors which admittedly rarely, if ever, has had all of its members come together at one time.

It does business by telephone more frequently than by confrontation.

As one who still regrets finally voting for the formation of the postal corporation in the way in which we did vote for it, I feel rather strongly that this is one way that we can get ourselves back into the business of reviewing the activities of these people, exposing to the public scrutiny those members of the Board of Directors who are too busy in other occupations to devote their time to it, and hopefully get a greater degree of responsibility for the men.

I think I would view everything the chairman has said with respect to our reluctance to do anything at all that would interfere with one of the salutary features of the new law, being the right of the employees to bargain for wages and other benefits; it would not be my desire to return to the old system in that regard.

I think there is a great deal of frustration among Members of the Congress about the fact that we have set aside over here a group of people who show really no inclination to be responsible to the American public at a time when we are being asked to be responsible, responsive public, open, aboveboard, conduct all of our business, including our party caucuses, on the record where everybody can see.

It is somewhat disturbing to see that the very important Postal Service has been turned over to a bunch of people who don't operate in that fashion.

I would like your reaction to the provision in the bill, section 1 which you have already indicated causes you concern, that would like, not annually, but at least periodically, the Postal Service to come before this committee and justify its method of operation and perhaps justify specific activities on their part.

Mr. FILBEY. Well, Mr. Ford, my response to that would be, obviously, we support that section of section 1 which requires the Postal Service at any time the members of this committee—or any committee of the Congress—desires their appearance.

It would require them to appear and respond. We do not oppose the enactment of section 1. We only stated that we have a fear that as the subsidy to the Postal Service increases 20 percent under this bill and subsequent legislation over the years may raise that figure higher and higher, and—the greater the amount necessary to be appropriated

by the Congress, the greater the desire of many Members of the Congress to control the complete operation of the Postal Service.

That puts us back in the position which we were in prior to the passage of the Postal Reform Act.

Now, I realize that section 1 provides that the recommendation basically, in my language, the recommendation of the percent of the subsidy is to be, No. 1, considered by the House Post Office and Civil Service Committee; but the ultimate decision will ultimately be made by the Appropriations Committee.

Over the years, prior to the passage of the Postal Reform Act, we had some very sad experiences with appropriations coming out of the subcommittee, on the subcommittee, for the Post Office Department.

I can remember year after year the Post Office Department would request—off the record would request the postal unions to come up on the Hill to lobby to get their appropriation increased. After the appropriation was passed, it would come up and lobby for a subsequent appropriation, a deficiency appropriation. Year after year.

Of course, under the law, you are not supposed to do it. We spent a good bit of our legislative effort up on the Hill prior to postal reform, not only convincing the Congress that we ought to have a pay raise, but also convincing the Members of the Congress that the appropriations of the Postal Service ought to be increased or the deficiency appropriation ought to be passed.

I don't want to get back into that situation. I don't—I know our union doesn't want to get back into that situation. We have no objection to Congress making a subsidy to the Postal Service, 100 percent if they wish. As a union, we have no objection to that.

We just don't want the appropriations—to have to negotiate our wage and fringe benefits with the Appropriations Committee of the Congress.

If the legislation guarantees that whatever the bill—whatever the labor bill is negotiated between the employer and the unions will be financed by the Congress, that's OK with us.

I don't think the Congress is about to agree to such a proposal.

Mr. FORD. Thank you.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. Derwinski?

Mr. DERWINSKI. Mr. Filbey, as you know, I consider you and Mr. Nilan and Mr. Bowley three of the finest, most effective legislative spokesmen on the Washington scene. As a matter of fact, I consider you one of the great statesmen of Washington; so much so that if I am ever President of the United States, I would seriously consider you as my Secretary of State.

Mr. HANLEY. Will the gentleman yield at this point?

Is that a foreboding for the future? Are you about to announce for 1976?

Mr. DERWINSKI. Perhaps to give Moe some competition.

I know you did not mention a provision of the bill that I thought would automatically earn a favorable comment. That is the provision which would provide for the right to transfer for any employee in the Postal Service to any other position in the executive branch after 1 year of service.

You didn't comment on that in your statement.

May I ask if you do have an opinion on that subject?

Mr. FILBEY. Yes, we do favor the right of postal employees to transfer into other agencies of the Federal Government; they should have the same right any other employee of the Federal Government has.

Mr. DERWINSKI. Now I know very predictably, very logically you would oppose liberalization of the private carrier statute. Now, at the same time you also politely ask for the possibility of the committee making it legal for the right of postal employees to strike.

Now it seemed to me that if you are very serious about trying to obtain the right to strike that it would be inconsistent to try to freeze out possible competing private carriers since I am sure you won't want to strike and have the public strangled without being able to turn to alternative sources of delivery of some of the mail.

Do you care to comment on that?

Mr. FILBEY. Yes, I will comment.

I am sure at the conclusions of my comments you will withdraw your nomination of me as Secretary of State.

I do not see any difference between the employees of the Postal Service and employees in any other sector. If the coal employees go on strike, there is no alternative method of making coal.

If auto workers go on strike, there is no alternative manufacturer of automobiles.

If the steel workers strike, there is no alternative to making steel.

Why should postal employees be any different? Postal employees should have the right to strike. Obviously the purpose of striking is to tie up a certain part of the economy so that the employer would have a more friendly attitude, shall we say, at the bargaining table. That's the purpose of the strike.

Let me say to you, too, Mr. Derwinski, the fact we don't have the right to strike has not prevented postal employees from striking in the past. It will not prevent them from striking in the future.

Mr. DERWINSKI. You do consider your employees much more akin to those in the private sector than other Federal employees?

Mr. FILBEY. Yes, absolutely.

Mr. DERWINSKI. Thank you.

Mr. FILBEY. Congress must have, too, since it passed the Postal Reform Act which made it possible of the invasion from executives in the private sector into the Post Office Department rather than carrier people.

Mr. DERWINSKI. You are also very pleased with your negotiations with the new Postal Service?

Mr. FILBEY. I am very pleased with the negotiations we have had with the present management of the U.S. Postal Service; I am not necessarily pleased with everything, but at least our negotiations have been fruitful.

Mr. DERWINSKI. This is also a tribute to your negotiating skill, sir.

Mr. FILBEY. I would say it's a tribute to the fairness of the people on the other side of the table. And I accept your nomination as Secretary of State. In fact, I was waiting for what was coming after that.

Mr. HANLEY. Thank you, Mr. Derwinski.

Mr. TRAXLER?

Mr. TRAXLER. Thank you, Mr. Chairman.

The economics of the present-day postal operation, I think, are of interest to all of us. My recollection is that the current budget of the Postal Service is in the area of some \$12 billion annually, and that it's anticipated that in the 1974 fiscal year, their deficit will be in the area of some \$450 million.

Additionally, that in 1975, the deficit in the fiscal year 1975 will probably be \$900 million. The Postmaster General has said publicly that he will seek a minimum of 3 cents first class increase per letter.

Do you think that in and of itself will allow the Post Office Department to run on a balanced budget in view of the fact that your contracts are coming out in the next year? In other words, is 3 cents in your opinion, going to be enough not only to erase the deficit but to meet what you would presume to be legitimate contract demands?

Mr. FILBEY. Mr. Traxler. I have no idea what the total cost of the demands which we will make and those which will be agreed to at the bargaining table. Whether the \$900 million prospective deficit for the fiscal year—and the 3 cent proposed increase—this is the first I have heard that the Postmaster General himself has said it would be 3 cents. I know he said he will ask for a rate increase; whether it will finance it—the results of our bargaining, I don't know.

To be honest with you, I don't know. In the first place, I don't know what the Postal Service is ultimately going to agree to with us. I know the demands we will make, or request—we will request of the Postal Service, will require a great deal more than 3 cents to finance them.

What we get may not require 3 cents.

Mr. TRAXLER. I think you can appreciate the problems that the committee has.

Mr. FILBEY. Absolutely.

Mr. TRAXLER. We are privileged to have conversations—for instance, myself, representing a cross section of America, in my Congressional district, a rural, urban, and suburban district, an area in which I have many postal workers, small town postmasters, medium-sized town postmasters, talking with these people, with the general public, their concern really goes to the efficiency and the working of the system, the need to have the system perform "the service" in an efficient manner so that that mail is delivered in a fashion that the public has become accustomed to.

Both your union members, the public, and small town postmasters have been very, very concerned about the deterioration in the service as a result of "efficiency," as a result of fewer man-hours, of the cut-backs in the number of personnel who are on the line delivering the product in some form, fashion, shape, or manner.

Let me ask you this question: Do you think that the "efficiency" that's been introduced into the system for economy purposes has led to increased efficiency in delivering the mail? Do we now have a situation developing in which we can call this a corporation now, which it is?

Let's for a moment call it that, because some of the people in the department like to think of themselves as a private business.

Can the Post Office indeed be operated as a private business or indeed—and I think this is the question we have to answer here—is it going to require a public subsidy from the Federal Treasury in order to fulfill the role that the public and the Congress has seen in its traditional place, and that is as a vehicle to deliver a service, the mail?

Mr. FILBEY. Well, it's difficult to respond other than to say that we as a union are not satisfied that the Postal Service is operating as efficiently as it should. We do not feel that it is rendering the same service which formerly was performed by the Post Office Department 15 years ago; but it's my belief that the Postal Service itself is rendering equal service to that which was rendered in the latter days of the Post Office Department, prior to the adoption of the Postal Reorganization Act.

Again, I refer back to the Appropriations Committee.

The Appropriations Committee over a number of years, prior to postal reform, insisted upon mechanization in the Postal Service which sounded good.

But increase mechanization in the Postal Service is one of the things which delays the delivery of mail. When you install expensive machinery in a centralized mail operation, in order to make the machinery pay for itself you have to reach out further and further geographically to get the volume of mail to keep the machine running. The further out you reach, then that mail has to go back, a good portion of it, from where it came.

It's almost impossible in some circumstances to get it back the next day; to have a local delivery, if you please, in small towns the next day after mailing as formerly existed.

So that it's a problem. It's a continuing problem whether mechanization is going to give the same kind of service which formerly existed—I am talking about now in the early 1960's in the old Post Office Department.

The only way the Post Office Department is ever going to be able to give the same service it gave before is to go back to the manual operations which would mean ultimately everybody in the country would be working for the Postal Service as the volume of mail continues to increase.

With mechanization, and making full utilization of the machinery that the Postal Service has—not only the Postal Service, but the former Post Office Department introduced into the system, is bound to delay. You process the mail faster, to a certain point, but it won't get it back in delivery as quickly as it was formerly delivered.

Now that may seem like a roundabout way of answering your question. I doubt if the Postal Service can ever break even. Financially, I doubt if the Postal Service can ever break even.

Nevertheless, the Congress, in its infinite wisdom, when it passed the Postal Reform Act, suggested this would be possibly by the year 1980, if I remember correctly, with the exception of a public service subsidy of \$500 million, I believe it was originally.

Will it ever break even? I don't know. Will the public get the service it wants? I think the average citizen is getting the service the average citizen wants. Business firms will never be satisfied unless we go back to five deliveries a day, things that they had back in the early 1940's and 1950's.

I'm in favor if it. If they want five deliveries, give them five deliveries. The more deliveries they have, the more people work for the Postal Service, the more we unions have an opportunity of organizing.

Mr. TRAXLER. Thank you, Mr. Chairman.

Mr. FILBEY. Let there be no mistake, Mr. Chairman, in the committee's mind. My position, the position of the American Postal Workers

Union is if you wish to have—give the Postal Service money to operate, we would be very happy to help the Postal Service spend it in wages and fringe benefits for the employees we represent.

Mr. FORD. Mr. Chairman, I would like to make one observation. I am not disagreeing with the figures that the gentleman from Michigan used in describing the magnitude of the deficit, but if you use the definition that the Kappel Commission was using and the other people who scared the devil out of the American public and the Congress and precipitated this dramatic action, the deficit we are talking about is close to \$2 billion a year.

At a time when the President of the United States is erroneously trying to lead people in this country to believe that cutting \$5 billion from the budget would solve all our problems of inflation, that \$2 billion would be very significant recovery of the deficit, if in fact it was at all possible to do what all those hot shot experts on the Kappel Commission said would happen.

The Congress just adopted the idea as a wonderful dream that the Postal Service could be self-sustaining. They were sold a bill of goods by allegedly competent businessmen who didn't know what the hell they were talking about, that a service that should be in the same status of dignity as a service necessary to the American public as our military or anything else that people looked to their government for could be put on a pay-its-own-way, on that basis, and still provide that service.

So we neither have the service, when you look at the number of things that have been curtailed, nor do we have the economy that was predicted. And I think the Congress is becoming more and more conscious that some change is going to have to take place. I don't object to the \$2 billion deficit. I think we ought to be honest with the American public and tell them they are paying, as they did before, to maintain the Postal Service, and that the fiction of the idea that this is a business that is going to carry itself is just that, a fiction.

Mr. FILBEY. I am sure you remember for a long period of time the organization I represented, the United Federation of Postal Clerks, opposed Mr. Kappel's recommendations. It was only when the bill was—provided a different system of labor relations that the organization that I then represented, the United Federation of Postal Clerks, approved the Postal Reorganization Act.

It was through your efforts and the other fine members of the committee, the labor relations section of that bill is a good section. We would like to see it continue without any interference from the Appropriations Committee.

Mr. HANLEY. Well, President Filbey, Mr. Nilan, Mr. Bowley, on behalf of the full committee, our deep appreciation for your input here this morning. Certainly you have assisted the deliberations of this committee.

Thanks for being with us.

Mr. FILBEY. Thank you, Mr. Chairman.

Mr. HANLEY. Our next witness is Mr. James Rademacher, president of the National Association of Letter Carriers.

STATEMENT OF JAMES H. RADEMACHER, PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS, ACCOMPANIED BY J. JOSEPH VACCA, EXECUTIVE VICE PRESIDENT, AND AUSTIN B. CARLSON, VICE PRESIDENT

Mr. HANLEY. It is a pleasure to have you with us this morning. I am confident your testimony will be substantive and helpful to this committee. For the purpose of the record, if you would introduce your associates.

Mr. RADEMACHER. Thank you, Mr. Chairman. I am happy to do that. We have the newly elected officers of our union accompanying me this morning. On my left is our executive vice president, J. Joseph Vacca, who will be in charge of legislation, among other things.

On my right, our former secretary-treasurer, now our vice president, Austin B. Carlson, who will also be assisting in legislative affairs.

We are building our legislative department up again. It is evident that we have to come to Congress on a number of matters important to their welfare.

Mr. HANLEY. I take this opportunity to congratulate your associates on their new positions. We look forward to a nice association with you.

Mr. RADEMACHER. Although the chairman has undoubtedly sponsored H.R. 15511 and is seeking amendments to the Postal Reorganization Act based upon his broad experience with the subject matter, our union finds it more appropriate to limit our testimony to those amendments which directly affect our membership.

For example, we truly believe that a subsidy is very necessary for continuation of postal services. We want no excuses for any further deteriorations of service which, in the past have seen the removal of thousands of collection boxes, reduction of business deliveries, and implementation of new methods which are not proving economical or practicable. Historically, the word "subsidy" has been misunderstood and has been classified as would a four-letter word. We strongly believe that there should be an annual authorization specifically labeled "Public Service Subsidy" which should be exactly that—a subsidy for service. We would urge that such subsidy be earmarked for service.

Our great Nation is entitled to a communications network provided by its Government. The citizens should not be required to pay for the system but should be asked to pay for the services rendered. A postal customer should be required to pay the cost of transmittal of a communication from one point to another and those conducting business through the mails should be required to pay the cost of conducting that business in that manner. However, the *modus operandi*—the method and manner in which mail is processed including buildings and vehicles—should not be the financial burden of the postal customer but of a Government which provides a communications network.

I might say we have never had the Postal Service on a priority list. The Government is willing to provide billions of dollars for the Department of Defense. Nobody asked a sailor, a marine, a soldier to go out and raise enough money to pay for the Department of Defense; a communications network that employs hundreds of thousands of peo-

ple is urged to go out and get sufficient revenue to pay for its existence. I think we are inconsistent.

Our union has argued historically the merits of subsidy and we feel stronger today on the subject than ever before because we have visual evidence of the loss of mail volume which has been continuing because of no guarantees of service standards and higher postal rates. Later on in this testimony we will express our views on the subject of mail volume losses and the thriving independent firms which are expanding today because of the conditions stated earlier.

The legislation currently under study by this subcommittee contains several amendments concerning the Postal Rate Commission and rates as well as classifications. We would suggest an amendment to all such amendments, our recommendation being the elimination of the Postal Rate Commission and the return of postal ratemaking to the Congress. It is imperative that those who establish subsidies also have the responsibility of determining rates. We make this statement free of any prejudice or personal opinions concerning the present Rate Commission as constructed for we believe that group has had a tremendous responsibility and has fulfilled its duty to the utmost extent.

However, just as within the Board of Governors, there is that feeling among businessmen serving on the Rate Commission that service is secondary to complying with the "break-even" statute. One could hardly expect these businessmen to have the same political sensitivity which prevails in the Congress of the United States. Therefore, we strongly urge enactment of an amendment which would reestablish the ratemaking power with the Congress. That power could be granted to a subcommittee of the House Post Office and Civil Service Committee or it could be a subcommittee of other appropriate committees of the House of Representatives. Hearings could be conducted by select staff representatives with Congress being the final determination as to future rate increases. It is our firm belief that no further rate increases of any classes of mail should take place until such time as Congress has determined amendments necessary to the Postal Reorganization Act to correct these malfunctions which have occurred as a result of serious attempts to convert the Post Office Department to the U.S. Postal Service.

Aside from the above recommendation on the subject of ratemaking, our union remains silent and neutral for we believe that our members are entitled to a reasonable wage and reasonable fringe benefits irrespective of the ability of the employer to pay.

For the record, our union has historically urged that the Postal Service has the right to represent itself in court without prior consent of the Attorney General. We have had some sad experiences in the past where an urgent demand that an independent delivery firm cease and desist from delivering Christmas cards was forwarded to the Justice Department only to be ignored.

We find ourselves in disagreement with the position taken by the Board of Governors concerning relaxing the private express statutes. We feel we also must urge stronger language in H.R. 15511 to protect the monopoly of the Postal Service and to prohibit the continuation of encroachment by private delivery firms. Where H.R. 15511 and the Board of Governors are admitting that the USPS cannot meet the demands of such financial institutions as banks, clearinghouses, as well as some computer firms, our union feels that an effort should be made

to provide the services needed by these firms. It would be possible and a very simple assignment for a letter carrier to appear at any financial institution, at any hour of the day and perform the same services that the Board of Governors is willing to turn over to employees of the firm. It will only be when high costs charged to embezzlement, theft, and losses are noted that the institutions involved as well as the Board of Governors will realize they have made a serious mistake. Highly skilled, career letter carriers can perform any delivery task and their work should not be turned over to others because of the feeling of some that the Postal Service cannot compete. In suggesting amendments to the Postal Reorganization Act on this subject, every precaution should be taken to make certain that the purpose of such amendment, although well intended, will not be the cause of eventual disasters. Any opening of the door in the area of monopoly would be the opening gun in the attempts of private delivery firms to invade the privacy of the postal monopoly. We are convinced postal monopoly laws need tightening and certainly not relaxing.

One of the complaints we have today is that the private firms are attaching plastic bags on doorknobs. Where city ordinances are now banning the placement of such bags, we find the independent delivery firms now circumventing that problem by attaching hooks on suburban area mail receptacles to place their plastic bags thereon.

The Postal Service General Counsel—the union's general counsel has been advised that there is nothing irregular or illegal about that. We feel there certainly is. It's an encroachment.

Earlier, we referred to encroachment by private delivery firms which today are thriving and expanding because of the failure of the Postal Service to guarantee delivery and because of higher postage rates. Certainly, none of us can oppose free enterprise and the right of the merchant to conduct his business should not be offended. However, for merchants to actually advertise their services as being "mail service" and conducted by "postmasters" should be outlawed by legislation. Any amendments to the Postal Reorganization Act should contain a clear-cut prohibition against any private reference to an establishment being a "mail service" or being managed by a "postmaster," or in any other way inferring that firm is conducting a postal service.

We are in receipt of an advertisement from Midlothian, Ill., where a new service is being advertised as the "Fee-Mail Postal Service," the emblem bearing an eagle. In addition to this distinct similarity, the reader is led to believe that a J. C. Schude is the "Postmaster General" of that particular "Postal Service." The public is being duped into believing that many firms throughout the country are actually branch offices of the Postal Service. Some firms have faced indictments because of their having portrayed a Government agency as they solicited employees to "deliver the mail."

It is understandable that a merchant whose costs have soared because of higher postage, would be considering transferring that business wherever he could enjoy lesser costs. We were not surprised—although disappointed—when we learned that the Warshawsky Co. in Illinois determined to take their \$6 million of annual postal business elsewhere. All that firm was asking is what our union has been asking for the past 10 years. With the huge fleet of postal trucks available,

the Postal Service could certainly provide a pickup program for such mailers. Again, the United Parcel Service will increase its profits and its volume thanks to a stubborn postal establishment which lacks the imagination and enthusiasm for such experiment. Although there is presently underway a limited experiment in this area—if adopted, it will be too late to recapture lost volume. It is shocking to know that 10 years ago the Postal Service handled more than 70 percent of the Nation's parcel post volume and that today 30 percent is being processed. Two years ago, United Parcel Service for the first time surpassed USPS in the total volume handled during any one year. It is estimated that by 1980 all that will remain of postal parcel post business will be about 10 percent which will be in those areas where the private delivery firms will not go.

There are those who feel that if private enterprise would perform identical services to the entire Nation, as does the Postal Service, the competition would provide a better service and the Postal Service would no longer handle such matter as parcels. The factual situation is that if a private competitor did agree to deliver parcels on all the highways, byways, rural routes, and other isolated places, we would have the same situation that existed prior to 1920 at which time the Congress authorized parcel post delivery by the Post Office Department. Because of no Government competition in the market, express firms were charging exorbitant rates since there was no other way of securing delivery of parcels.

That same situation could well develop within the present Postal Service if the postal monopoly is terminated. As this subcommittee knows, another congressional group has recommended the elimination of the monopoly on first-class mail to allow those involved in small business operation to compete for that business. On the surface, and in an atmosphere of support for free enterprise, there will be some enthusiasm for that proposal. The factual situation again remains that small business or large business cannot possibly do the job that USPS is required to do in serving all of America. If the Postal Service were to lose revenue from first-class mail which is being diverted to private delivery firms, it would still be required to serve those areas where such firms would find it not profitable to make deliveries. The result would be that those who would be forced to use the Postal Service in order to have their mail delivered to those areas where private business will not trespass, will be required to pay exorbitant postage rates. Our arguments against terminating the monopoly enjoyed by the Postal Service will be directed to the Congress at the appropriate time and we will have more extensive testimony covering this subject. As a final point on the issue, however, our union does agree that a monopoly must be earned and the current service conditions within the Postal Establishment do not warrant the luxury of such monopoly.

Before concluding, Mr. Chairman, we believe it to be necessary and important that we permit this committee to know of our views concerning current conditions of employment and postal service. At the outset, it is not our intent to grieve to the Congress about matters which rightfully belong at a bargaining table. Because of our continuing strong belief that the representatives of the American people—the Congress—should oversee the Postal Service, we call these matters to your attention.

The present policy of the Postal Service is working to a maximum extent and certain service standards are being met. We do not agree with the policy and find serious fault with the standards. We feel that the essence of good postal service is a combination of collection and delivery. The collection of mail today is an absolute farce. In the current "do it yourself" atmosphere, letters must be deposited at certain boxes in order to be collected within reasonable time. About 90 percent of the collection boxes in the Nation are not tapped from the time the carrier makes his deliveries on Friday until he makes his deliveries on Monday. Therefore, a letter placed into a residential collection box on Friday afternoon will remain there until Monday. After it has been collected on Monday, it could be delivered within the next 48 hours, adhering to the current delivery standard. However, it remains true that the letter was deposited on Friday and not delivered until at least Wednesday. Fifty years ago, that same letter would have been collected on Friday night from collection boxes where even Sunday collection service took place. We must agree that the present collection and delivery system is working but we reiterate our position that the system is not one which produces the best service.

Reports from our locals throughout the country indicate frequent curtailment of first-class mail. We take for granted that management will delay other classes of mail but certainly, first-class mail should not suffer delay. I have personal and firsthand knowledge of delayed third-class mail which was evidenced by the delivery of this advertisement of the local Hecht Co. According to the advertising department at the Hecht Co., the brochure was mailed October 15, 1974. It announced a special private sale October 30-31. I received the circular on November 2, 48 hours after the sale had ended. I imagine this firm paid thousands of dollars for the printing of such an elaborate brochure. I could determine no reasonable excuse for this type of service. Relative to curtailed and delayed mail, I feel it is of interest to note that the letter carrier each day delivers all mail which management permits him to deliver. It is humanly impossible to adjust routes to certain mail volume when we do not know from day to day what has been placed into the mails. Because of this situation, overtime or auxiliary assistance can be authorized if the volume necessitates a workload beyond 8 hours daily. In far too many instances, the overtime and auxiliary assist is not authorized and mail is curtailed. It is no wonder that many mailers are contracting with the independent delivery firms.

In my personal opinion, much of the frustration and inefficiency within the Postal Service is due to pettiness among postal people. Pettiness can stem from lack of training of management personnel, sadistic attitudes, envy of benefits won by bargaining unit workers, and a desire on the part of some to harass agitators into resignation or retirement. We find many examples of management inadequacies as the pettiness increases. For example, supervisors are ordered to spend at least 2 hours daily in observing letter carriers on the street. To our many career letter carriers, this is nothing more than harassment techniques. Our members resent being spied upon by highly paid officials who have nothing more to do than to drive up and down carrier routes to make certain that the carrier is giving maximum effort.

At a time when the President of the United States and the Congress are doing all within their power to control inflation, and doing all they can do concerning the energy crisis, we have the Postal Service agency of the Government, which has ordered its management to spend 2 hours a day—they must, in fact, we have directives that say, drop anything else, in order that you can meet this requirement, 2 hours a day driving up and down letter carrier routes, at a time when we are all supposed to be conserving energy, and at a time when our President and everyone else is concerned about productivity. There is no productivity by supervisors, who are merely driving up and down letter carrier routes spying on their performance.

An example is a situation which occurred at Woburn, Mass., in October. The president of our local in that city was performing his duties when suddenly two vehicles pulled up to the curb and four highly paid supervisors emerged from the vehicles demanding to know why the carrier was a block behind where his schedule would have placed him. This information was available before the letter carrier left the post office since efficient supervision could have detected the amount of mail to be delivered on that particular day. In these days of fuel problem and attempts to economize in Government, it is just ridiculous to be spending money for gasoline and nonproductive supervision to spy upon letter carriers whose routes have already been adjusted to as close to eight hours as possible.

We continue to get complaints concerning the new markup program whereby mail undeliverable as addressed is being forwarded with labels prepared by a computer and affixed by employees of another craft. Historically, the retentive memory of the letter carrier has been an asset as an average 11 million pieces of mail are forwarded to new addresses daily by the letter carrier. The transfer of this job function to a computer and to another craft has proven to be extremely costly from a manpower standpoint and, more importantly, from the service concept. More manpower is currently being used to perform this function and in many post offices, mail awaiting labels for forwarding is delayed as long as two weeks. I can predict now that Christmas cards which are not properly addressed will be delivered pretty close to Valentine's Day.

On the subject of overall management, I feel that certain criticisms that have been voiced recently by the press against top management are not the least bit helpful to the service or to the morale of the employees. I would not disagree with the right of the press or the Congress to criticize management of a Government agency and whether or not the criticisms are justified is not for me to judge. As far as Mr. Klassen is concerned, I feel he is not running the Postal Service but is doing his very best to administer its policies. He has been misled, uninformed and mistaken in his beliefs concerning the Postal Service and, only recently, he saw fit to issue two documents to lower level management admonishing those who had been padding mail volume counts and had not been acting in accordance with his policy.

Because of the constant changes which are occurring in the mad attempt to attain in 1974 goals that are not expected until 1984, our membership has never suffered such a deterioration of morale. Numerous new policies have been implemented causing frequent route changes and total turmoil in many post offices. The situation has grown

so bad that delegates attending our recent national convention overwhelmingly approved job action in the event the new robotizing of carrier assignments is implemented nationwide. The strike-call action was prompted by announcement by management that at Kokomo, Ind., the new procedures would be tested. In the testing, management eliminated 3 of the existing 25 carrier routes. In order to head off a very disastrous job action and to preserve service, the union met with top-level management at a meeting agreed to by the Postmaster General in the hopes of reaching some agreement. The agreement calls for a 90-day test at Kokomo, Ind., followed by top-level evaluation and discussion before any further implementation takes place. At this point, the situation is critical since our membership will not accept any system which ignores the human equation and management is hellbent on pressing for increased production at any cost.

I can tell you, though, there is an excellent chance there will be job action by the National Association of Letter Carriers next March, unless there is further and greater consideration for the human element in the adjustment of letter carrier routes.

Further in regard to management practices and policies, it is my personal belief that the only way that economies can be affected in the Postal Establishment is by reducing service and/or the number of employees. Since none of us desire service to be reduced any further and because there is no way that the number of letter carrier jobs can be reduced if the current mail volume is to be handled, if the economy axe is to fall, it should be in the area of nonproductive management. Certainly, if there have been thousands of letter carrier assignments eliminated by the new markup policy, there should be a proportionate decrease in the number of supervisory positions. In addition, and what makes even greater sense, is consideration of the termination of the employment of either district managers or postmasters. There are almost 100 district managers who now practically run the Nation's 32,000 post offices. With this middle level control of all post offices, there is no need of 32,000 rubber stamps.

On the other hand, historically, post offices have been able to operate without any middle authority and for that reason, along with economic considerations, these middle men could very well be terminated.

At least, it should not be necessary to have a middle man exercising his authority over postmasters of the Nation's very large offices.

It must be remembered that management does not deliver the mail. We feel that productive jobs should be increased and nonproductive jobs eliminated. If this were to occur, there would be a better Postal Service at a lesser cost of operation.

On behalf of our 230,000 members, Mr. Chairman, and members of the committee, we appreciate this opportunity, because it gives us a chance to express ourselves as experienced veterans of the Postal Service, not as those who may be short-term appointees.

We very much appreciate you permitting us this testimony here today.

Mr. HANLEY. President Rademacher, I commend you on your excellent, and what I describe as objective, testimony. You have made a number of excellent points. I was especially interested in your evaluations of the "subsidy" provision in H.R. 15511. It has always been a source of annoyance to me that funding related to the U.S. Postal

Service has always been described as subsidy, unlike that of any other agency; so the Postal Service endures the stigma of subsidy, as opposed to all other Government agencies, who enjoy the status of appropriation. I don't know of another one where funding is described as a subsidy.

To take the Department of Agriculture as an example, the appropriation or subsidy to that Department has consistently been five times that dollar figure ever provided the U.S. Postal Service or its predecessor agency, from the U.S. Treasury.

For some unknown reason, this is looked upon as a subsidy or a naughty thing.

Yet on the other hand, here is a service that touches every household in America, every business and industry in America. If these entities are not deserving of some assistance with regard to the overhead of that gigantic industry, I don't know of any other agency in Government that then could be worthy.

I was again impressed with your statement related to the private express statute; and in particular, when you said that it's a monopoly that must be earned. That monopoly traditionally isn't earned, because of a fundamental; and that is the reasonable rates assigned to the various classes of mail. It's the intent of this committee to fight off any overture that might have the effect of repealing the private express statute. In order to do this, we must assure all mailers that that rate will be reasonable, because once it gets beyond the reasonable description, then it becomes questionable as to whether or not the USPS could deny any private entity of a way of doing it by themselves.

The Constitution provides that we don't employ this type of discrimination on private enterprise. So what I am saying is that it is essential that we preserve the description "reasonable" as it applies to all classes of mail.

So as you have said, the USPS then will have earned this monopoly, this monopoly which in turn is absolutely essential, if the traditional brand of service provided by the USPS is going to prevail.

May I ask—are there any provisions in H.R. 15511 which, in your judgment, would weaken the private express statute so that the U.S. Postal Service monopoly over first-class mail might be threatened?

Mr. RADEMACHER. We think, Mr. Chairman: that you have covered the matter well, because of your research and because of the recent attempts by the Board of Governors to relax the statutes, it appears that you have made every effort to see that they remain sound. We find no quarrel. We were concerned with your earlier witness, however, who will be an excellent witness for our union, when we talk about monopoly. We were concerned about his objection to your bill, which we support practically totally.

We can understand how there are those who have not yet been stopped from violating the law, who would take exception to your legislation. In answer to your question, I cannot find any serious differences in your concept and ours. I did not refer to some of the other amendments which we are not concerned about, the Rate Commission, other than we prefer that it go from the Board of Governors, too. We feel the two handicaps in the Postal Service are the Postal Rate Commission and the Board of Governors, nothing personal intended.

Mr. HANLEY. Mr. Johnson?

Mr. JOHNSON. Mr. Rademacher, I think your statement has been very well prepared, and it's an eye opener in many aspects. I think the committee is indebted to you for your contribution. There is one place where I don't agree with you, and that is having the Rate Commission functions transferred back to Congress. You attended most of the rate hearings in the past, when Arnold Olsen and myself were the two chairmen of the Rate Subcommittee, and we spent 1 whole year, as you recall, in hearing everybody.

Now one thing about Mr. Olsen, he heard everybody, and we took time to listen to everybody. It was a tedious, tedious job. Finally, we came up with rates which would, as you might surmise, be commensurate with what the contemplated raise in wages was.

We really wasted the whole year.

I would hate to see that function come back to Congress. We have created a legal monstrosity now in the functions of the Rate Commission, because we provided for judicial review, and that brings in the judicial code, providing for interrogatories. I understand there's been literally hundreds and hundreds of interrogatories filed on both sides, some well meaning, many of them for purposes of delay in getting a decision; if we keep the function in the Rate Commission, we must go into the function of the Rate Commission very, very thoroughly, and try to streamline it and speed up their operation. Let's say within the realm of due process of law, curtail a lot of unnecessary maneuvering that takes place.

How do you figure that we, the Congress, could, take over the rate-making function again?

Mr. RADEMACHER. Our only feeling is—and we are not here solely for that purpose, we just want to express our view on the subject. Our only feeling is that those who establish subsidies should also establish rates.

Mr. JOHNSON. That probably makes a lot of sense. As far as I am concerned, if we are going to take back the ratemaking function, we might as well take back the whole system.

That's the way I would feel about it. I, too, noted your expression about the hundred supervisors, or managers we have all over the Nation. I have said right along that they have taken away from the Congressman the patronage power and the right to choose good people to work, and we just established the political power in somebody else.

You have alluded to some of the things that are taking place in that new type of political setup which may or may not be good; but I think it's a wonderful thing, that one of your carriers can rise through the ranks, in the system and become the postmaster, where apparently he wasn't able to before. It does have some good qualities, isn't that right?

Mr. RADEMACHER. He hasn't been able to yet. The reform is only 3 years old. I don't expect to be around when that will happen. The actual statistics in our union are that one letter carrier out of every hundred ever finishes his career in a level higher than that in which he was hired.

Mr. JOHNSON. Doesn't the new system contemplate that when a vacancy occurs in the post office, if that letter carrier is qualified to be the assistant postmaster, even the postmaster, that he has the first chance at it under this new system?

Mr. RADEMACHER. For some reason, nobody has been qualified yet. I don't know what it is. It hasn't worked out. I have great hopes.

Mr. JOHNSON. My time has expired.

Mr. HANLEY. Mr. Ford?

Mr. FORD. It is too bad Thad Dulski wasn't here to participate in that. I remember how pleased he was when they promoted a man from Mr. Johnson's district to Buffalo, N.Y., to become the postmaster. Nobody in Buffalo qualified for the job. [Laughter.]

My own observation is that a letter carrier had a lot better chance under the old system of getting to be a postmaster than under the new system.

I have to compliment the Postal Service on having one of the best PR operations in town. I am afraid, however, that the members of the Board of Directors and the Postmaster General apparently read these press releases they put out and believe them. I asked the staff to go back and get one that stuck in my mind as a particularly exciting one when I received it, because it did, as one Senator suggested we should have done during the Vietnam war, just declare a victory and get the hell out of there.

It was in June of 1974; Postmaster General Klassen summarized the great success of the Postal Service during its first 3 years. I quote him. He says:

Since its inception 3 years ago, the Postal Service has improved the speed and reliability of mail service, launched a massive plant modernization program, and significantly increased productivity while stabilizing its work force.

The guy who wrote that, had he been making an entry in the log after the *Titanic* disaster, probably would have noted that they stopped to get some cheap ice when they hit the iceberg.

The same people who have been telling us out in your hometown, and mine, Jim, that the economy was waffling a little bit while we had over 10 percent of the people in our State on the bread line. They have been writing this stuff telling the Congress and the people how well everything is going. We have been talking about subsidies today. I note that every time a spokesman for the Postal Service talks about how tough it is to break even, he talks about how much it is costing for labor costs. The implication is that it is the letter carrier that the citizen meets and the clerk that the citizen meets in his local post office, that they are responsible for that; that there are exorbitant demands for wages and fringe benefits.

In this same euphemistic, optimistic sheet that Klassen put out—or someone put out for him last June—he noted among other great achievements there was a reduction of reported parcel losses by 41 percent. He didn't mention, however, that during that same 3 years we reached the almost unbelievable situation where private companies were delivering more parcel post than he was; so he doesn't put next to this 41-percent reduction in reported losses the 100-percent loss in the volume of business that we were doing in that particular area.

Then when I go back and find that he enumerates in page after page the great progress that's being made, burglary losses reduced by more than 89 percent. Apparently, the Postal Service is perfectly willing to add personnel to take over the job of the FBI and the local police departments and everybody else and make no mention of that as being a part of the increased costs of operation. It is only the traditional postal workers who cost money.

The thousands of policemen that they put to work would all be unnecessary—they are never singled out as an additional cost that the post office is burying.

Now, if we added those thousands to the FBI and then assigned them to the post office department, we would find a different place in the budget and nobody would call that a subsidy. No citizen would object to paying the cost of that kind of service.

They boast about the reduction in the number of complaints for sexually oriented mail. They boast about how many fraudulent users of the mail they have.

I recall when the Postal Service was taken over by a former CIA agent, the Inspection Service, that there were some of us who were concerned about what his orientation would be. It is very apparent that he has been successful in convincing the Board of Directors over there that the Postal Service should perform all of the services that other agencies of Government should be called upon to serve and nowhere, either in this statement or anything said publicly subsequently by the Postmaster General or any of his spokesmen, will you find any acknowledgement of the fact that the increased cost factors that are a part of this so-called subsidy we have been talking about are because of increased activities by the Postal Service in areas other than delivering mail.

I would like to see an analysis—and hopefully your organization could take a look at it and give us some advice—on how the nonmail delivery costs in the Postal Service—and I am not talking about the traditional services that were given to people at the local post offices. Those have all been curtailed. But the nonmail delivery costs of playing cop, playing censor, deciding for me what is sexually acceptable material and what is not, and all of the other things that they have so vigorously expanded by way of employees, facilities, and other expensive activities, none of which delivers a single letter or parcel.

I would like to see sometime an analysis that breaks out of this \$2 million they are losing the increased costs attributable to things that don't give people service so that at least we have some honesty and the Congress, when appropriating this money, will not come back to us, other members, and say, "You know, you guys on the Post Office Committee have set up a situation where we are appropriating more and more money, because the employees are routing the Treasury." I think it is a bad rap for the employees, and I particularly resent it as a member of this committee, because I don't believe it is true.

I don't think we should have to take the kind of criticism that this committee takes from other Members of Congress and from the public for, in their view, setting up the situation where the employees are running off with unconscionable pay raises and so on.

This sheet incidentally also boasts about the fact that the Postal Service only asked for one rate increase during that 3 years; but it was a doozie; and at the time they asked for it, I remember the postmaster appeared before this committee. They made a mistake. They sent up his real statement and came back and tried to retrieve it. Some of us still have in our files a copy of what he would have said if somebody hadn't thought it over in the PR department. He very clearly said the only reason they needed a rate increase is because of the extreme demands of the postal employees. He backed off on that. Somebody thought that that wasn't a wise thing to do; but very

successfully the Postal Service has planted in the minds of the American people that it is the service they are receiving and the employees that they come in contact with in the Postal Service that are delivering that service that is costing more money; and in fact, it is all this Mickey Mouse sort of thing that the Postal Service has been engaging itself in that is costing a very substantial part of that.

Mr. Chairman, I close by taking the personal privilege of saying how happy both Mr. Traxler and I are to have a fellow Michigander that we are very proud of who has sometimes been referred to as a militant labor leader. But if you think Jim is militant, you ought to talk to some of his local union presidents back in my district.

Thank you.

Mr. HANLEY. Thank you, Mr. Ford.

Mr. TRAXLER?

Mr. TRAXLER. Mr. Chairman, thank you.

Mr. Rademacher, I agree with much of what you told us this morning. I thought it was very candid, very factual, and most forthright. I want to ask you, however, to just develop for a few moments for my benefit and perhaps the other committee members this point that you made concerning the possibility of job action, which I honestly translate into meaning the possibility of a strike on the part of your membership after the first of the year.

What are the problems, in brief, that would cause your membership to feel so strong that they would engage in a strike which, as I understand it, is illegal. Can you tell us what is it that can bring about this drastic action?

Mr. RADEMACHER. I will be happy to, Congressman Traxler, and I will try to be as brief as I possibly can.

The present postal management, as I indicated, is trying to accomplish 1984 goals in 1974. Our members historically have had their routes adjusted to as close to 8 hours as possible. This means that when their routes are adjusted by management, that has followed them up and down their routes, carriers have a tight 8-hour route.

Now, those routes in the last 2 years have been changed in many ways so that our people are just plain frustrated. They don't know from day to day what routes or what streets they are going to carry. The old carriers don't know whether they are even going to have a route left. We have senior carriers all over this country—and Congressman Wilson has investigated this for us in California—whose routes were terminated. They are out now just being assistants to, taking a street off of this route, and a street off of another. All of these things happen. Changing over from the normal type of delivery to a preferential type of delivery as an experiment to deliver the first-class mail in the morning, leave early, and return in the afternoon, where they prepare mail for the next day.

Telling a carrier he must go 4 miles down the street; 4 miles down the street instead of six streets over, four blocks on each street.

Now, there's still 8 hours in the day, but it adds up to a boiling point. Then comes the elimination of the markup. The carrier historically has marked up mail. He cares about service. If a check arrives on the first of the month for a patron who has moved, previously the letter carrier was able to mark a new address on that check, place it in the redistribution bin, and have it delivered that day, in that post office. It may not be delivered for 2 weeks now. We have actual facts on that.

All this adds up to total frustration so that when delegates met at our convention in Seattle in August, a motion came on the floor that if management dared to implement any new type of route adjustment method whereby the human factor is not a consideration, where they are going to robotize our members, a job action is ordered. I was in the chair. I took the vote. It was overwhelmingly adopted and almost unanimously approved by the convention.

That's the position that we are in. The test is now going on at Kokomo, Ind. As a result of the test, if in the end the Postal Service determines they are going to adopt a new procedure on adjustment without consideration of the human element, there will be a work stoppage as soon as that announcement is made. I can't help it. The membership was advised at the convention by our legal counsel that such action would be illegal; it is said to be a violation of the contract that I signed.

Delegates disregarded all that, because they care about the service and the future. That's the condition that they are in.

I am not strike happy. I am not interested at all in violating our contract; but if I intend to stay in office, I will abide by the mandate of my convention.

It is not up to me now; it is up to postal management. We have a legitimate complaint that concerns a human being, not a statistic and not a computer or a robot.

Mr. TRAXLER. One more minute.

Your membership are really out on the firing line. They are, as I understand the operation of the Post Office Department and the role that your membership plays in it, they are the ones that go to that home. They are the ones that are responsible for the ultimate final step, and that's dropping of that piece of mail into the homeowner's mailbox. It is your membership who has to account to the public in a sense for the misadventures or the misdeeds or the mismanagement on the part of people who are perhaps hundreds of miles away from that homeowner and whom that homeowner never has an opportunity, that postal patron never has an opportunity to talk to.

You sense a frustration on the part of your membership as to why mail is delayed days and hours and hours and hours beyond what could be a reasonable expectation for the delivery of that mail.

Mr. RADEMACHER. For your information, I happen to be a letter carrier. For 34 years, I carried the mail. My father did ahead of me.

Mr. TRAXLER. My father did, also.

Mr. RADEMACHER. I am sure in those days his prestige and image was second to none.

Mr. TRAXLER. They set clocks by the time he dropped the mail in their boxes.

Mr. RADEMACHER. There was an excellent relationship between the patron and the letter carrier, historically. They have been part of the family. It has gotten to the point that the dogs no longer like them and last year we had the largest number of dog bites in the history of the Postal Service.

To get back to the serious point, we are no longer respected by the people we serve and we are not responsible for this feeling. We would like to carry a sign with us, "not guilty." As I said earlier in the testimony, and I reiterate now, the letter carrier daily delivers all the mail management lets him deliver. He doesn't leave any behind unless he

is ordered to do so by management. It is not his fault. Not only is the burden on his back with the increased mail volume, but he has the burden of complaints on his other shoulder. I am glad you raised the question, because it is one of the saddest situations that's developed in recent years; that is, the deterioration of the prestige of the letter carrier, the ambassador of this Government arriving at every home daily. There's been a 360 degree turnabout because of service conditions which are not his fault.

Mr. HANLEY. Thank you, Mr. Traxler.

We are delighted to have with us today our friend and colleague and chairman of the House Postal Facilities Subcommittee, Congressman Charles Wilson.

Mr. WILSON. Mr. Chairman, I appreciate you giving me the opportunity. I will attempt to be very brief.

First, I do feel that you are approaching this thing in the right manner, Mr. Hanley, and trying to get established, whether we call it a subsidy or whatever to assist the Postal Service in financing what has to be done, whether it is 20 percent or 50 percent, or whatever the figure eventually is. It has to be done. You know as well as I do that right now when we get a rate increase all this is going to do is take care of new labor negotiations; and we are still not getting around to that job of fixing up the post offices and getting the safety requirements in. We are building post offices without sprinkler systems. We are not doing what we require private industry to do. I agree with everything you said in your statement today. I think the statement about the monopoly being protected is absolutely necessary.

Unless something is done, we have legislation to protect the postal monopoly, we are assuming that the Postal Service will just be delivering in rural areas and Indian reservations. All of the profitable places will be delivered by these private concerns. Unless they are required in the same areas as the Postal Service, and operate under the same conditions as the Postal Service, I don't feel that they should be allowed to operate.

I am doing research in that particular field at the present time. I agree with you, too, that the—if we are going to be making appropriations to the Postal Service from the Congress, we should have some interest in the Rate Commission being abolished. I talked to attorneys representing magazine publishers and others before the Rate Commission. They said, "We never had it so good." They said they are making a fortune out of their appearances before the Rate Commission.

God bless them, I would like to see everybody make a lot of money. But these things have gone on endlessly. The Rate Commission has not produced the time, Mr. Chairman, it takes to determine what rates should be established any more than what used to be done by a Rate Committee within this Post Office and Civil Service Committee. I think it should be taken back.

I agree wholeheartedly with the chairman. He has done an outstanding job in this field. I hope we can come together on some kind of omnibus bill that will include the major things we have determined in our subcommittee and those you determined in your subcommittee in Congress in trying to improve to the best of our ability the Postal Service as it should be.

Mr. HANLEY. Thank you, Mr. Wilson. I am confident that what you suggest will be the case.

It is my great regret this morning that we cannot continue to avail ourselves of your expertise working with the time problem that we have. I simply want to conclude with a reflection again on the private express statute, the monopoly, et cetera.

We had a rather startling example of the hazard of private enterprise involved in this activity recently in the metropolitan New York City area, when the United Parcel Service was on strike. As you know, a mandate was issued to UPS that if the strike was not settled by a particular day, then it would discontinue operations in that general New York area.

Fortunately, the strike was settled, but can you imagine if that directive became a fact, the burden that would have then been imposed upon the shoulders of the traditional agency, the U.S. Postal Service.

The UPS, I understand, employed somewhere between 4,000 and 6,000 people in the distribution of parcels in that general area.

Then fairly, could we expect the USPS to pick up that burden; and in particular, at this season of the year, as we move into the heaviest volume season of the entire year, the Christmas mailing season?

So I think that that transmits a bit of a message to all of us with regard to the essentiality of making sure that that traditional agency prevails as a full service agency.

It is also interesting to note that one of the instances called to the attention of this committee was the premise that independents could do it better, private enterprise could do it better and make a profit at it. Well, the point in that particular strike was, as I understand it, that UPS was losing and is losing somewhere in the area of \$8 million a year from that operation in the metropolitan New York City area.

So that pretty much discounts the premise that the private enterprise is a utopian way of handling this service.

Having said that, I again want to say thanks so much. Your statement was indeed a splendid one. It will go a long ways in assisting this committee in its deliberations.

Do you have a concluding comment?

Mr. RADEMACHER. I know brevity is the key here. Briefly on three points. I am happy you mentioned the UPS strike; and Congressman Ford mentioned the wage situation. There are people who think we are overpaid. All we want is comparability.

The UPS drivers' settlement was \$7.39 an hour. That is all we want. You now know in advance what the demands will be at the bargaining table come spring.

Secondly, I think that there are no more hard-working committees in the Congress than the committees of the House Post Office Committee. This committee, in particular; and Congressman Wilson has worked tirelessly. He's exhausted every possible effort to try to bring things to light. All of these subcommittees are keeping the Postal Service on their toes, but they are letting the 700,000 postal people know that Congress is concerned.

The final observation is the President of the United States, the administration, is now recommending some legislation, I understand, which might provide jobs in the event of emergency which is already

occurring and has been occurring for the last year. It isn't necessary to go too far on that when the subsidy legislation would prevent layoffs.

In our opinion, there would be hundreds of thousands of jobs saved if we can control these increases and if the taxpayers take on their shoulders the burden of having the Postal Service.

We thank you, Mr. Chairman.

Mr. HANLEY. Thank you.

Mr. FORD. May I ask one question?

There is another section of the bill I find very interesting and that is the one that would strike from the present law the requirement that the Postal Service must have prior consent from the Attorney General before it can enter into litigation.

I think I recall that when the Oklahoma City case involving private company, from the view of your organization obviously violating the statute, you had to go to court; and the excuse of the Postal Service, that they gave us for not having taken action was that they could not get this prior consent from the Attorney General.

I am not at all sure whether they want to use that excuse, but how do you feel about the ability of the Postal Service to go directly to court when litigation affecting the Postal Service is involved rather than getting clearance from the administration?

Mr. RADEMACHER. Congressman Ford, I would like to think one of the reasons that particular amendment is in there is because Congressman Hanley, in a discussion with our union among others, on this subject. He is as well aware as you are because he followed this earlier. Three years ago an independent delivery firm in Oklahoma was going to deliver Christmas cards for a nickel. They went to England and had 900,000 stamps printed. They came back here and started selling Christmas card delivery for a nickel instead of 8 cents.

As soon as we heard about it, we immediately went with counsel to the Postal Service. They said, "It is out of our hands, we can't do anything about it. It is up to the Justice Department."

Our counsel waited one week. We couldn't wait longer. Christmas was here. We flew to Oklahoma City. The union did something that the Department of Justice didn't do because they are not interested in the situation. Fortunately, a Federal judge did issue a restraining order, personally at that, to keep a private delivery firm from delivering Christmas cards.

I am happy you brought this out. The Postal Service should have the authority to sue and be sued if the union feels like it.

Mr. HANLEY. Again, I want to thank you, President Rademacher. Thank you, gentlemen.

Our next witness is Mr. Stephen Kelly, president of the Magazine Publishers Association.

STATEMENT OF STEPHEN E. KELLY, PRESIDENT, MAGAZINE PUBLISHERS ASSOCIATION, ACCOMPANIED BY CHAPIN CARPENTER, WASHINGTON VICE PRESIDENT, AND JOHN BURZIO, COUNSEL

Mr. HANLEY. If, for the purpose of the record, you will introduce your associates, we would appreciate it.

Mr. KELLY. Thank you. We do have full testimony that has been distributed. Our oral piece is roughly one half of it.

The gentleman on my left is Mr. Chapin Carpenter, Washington vice president of MPA, and on my right, Mr. John Burzio, MPA's legal counsel who represents us in the rate case.

I would hope, sir, during the question and answer period which I assume will follow my testimony that I can ask permission to call on them to provide additional information that will be in their particular fields of expertise.

Mr. HANLEY. Without objection, so ordered.

As I look at the clock, we are about to encounter difficulty. It is the hope of the Chair that the meeting can go through, hopefully until 12:30, if we are not interrupted with a quorum call prior to that.

If we are to continue the activity, we may have to, under unanimous consent, ask that the hearing resume later in the afternoon.

Mr. KELLY. We will be as brief as possible. We welcome this opportunity to comment on H.R. 15511. We are vitally interested in it, and while all of the proposed amendments are of some significance to us, four are of particular interest.

They are first, the proposal to increase public service appropriations to a level of up to 20 percent of the Postal Service's operating expenses of the previous fiscal year, which figure would finally be decided upon through an annual congressional authorization.

MPA supports this provision, believing that such an appropriation is absolutely necessary to cover the public service functions required of a national communication system like USPS.

Second, the proposal to alter the relationship of the Board of Governors of the Postal Service to the Postal Rate Commission through a variety of statutory changes, such as eliminating the role of the Board of Governors in rate and classification decisions.

We would counsel extreme caution in this regard, as we will explain later in this testimony. The Postal Service is more knowledgeable about postal operations, the cost of providing mail service and the effects which changes in rates may have on its customers and the postal system itself than anyone else.

It should retain, therefore, through the Board of Governors the right to review and modify recommendations of the Commission.

For example, proposals relating to costing methodologies and other aspects of ratemaking are being given serious consideration by the Commission, even though they are totally contrary to the views of the Postal Service and, we believe, to the intent of Congress when it passed the Postal Reorganization Act and, more recently, Public Law 93-328.

Third, the proposal to extend the time period between official notification and implementation of temporary rates from 90 to 180 days, and to limit temporary increases to no more than 10 percent of the permanent rate then in effect.

We would have no objection to this provision, but feel that it falls short of being a solution to speeding up rate proceedings, which I gather is its principal objective.

MPA feels that more procedural changes are necessary before such a change would be meaningful, and we offer one such suggestion in our testimony.

And fourth, the proposal to exclude expressly from coverage under the private express statutes magazines, newspapers, and other mail

matter which have historically never been considered subject to such statutes. MPA also supports this recommendation.

I will now quickly take each of these proposals up separately and give you our comments on them :

The proposal to increase the public service appropriation for the Postal Service is, in our mind, the most significant amendment to the Reorganization Act offered by H.R. 15511.

It reverses a concept that, if left unchanged, would slowly but surely drive an increasing number of mailers entirely out of the Postal Service and leave those without alternative means of distribution with excessively high rates. There has been much discussion in recent months about the public service concept of the Postal Service. For example, the Senate committee, in its report entitled Investigation of the Postal Service, dated March 7, 1974, included in its statement the following comment, and I quote :

The Postal Service is a constitutional service as important to the continuity and comity of this nation as any other, and perhaps more basic than any other.

You, yourself, Mr. Chairman, stated when you introduced this bill, and I quote :

The major thrust of my bill is to provide for a substantially increased subsidy to the Postal Service in recognition of its broad public service function.

Throughout the history of our nation, both the general public and the business community have come to rely on the mail as the means of communication that is most accessible physically and financially and one that provides efficient service at reasonable costs.

Congress, as we all know, has for nearly 200 years stated time after time its strong belief that the Postal Service is a public service, and this belief was once more enunciated in the Postal Reorganization Act of 1970. The opening section of the act stated as follows, and I quote :

The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities.

The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

In order not to impair the overall value of such service to the people, it seems to me that the public service function of the Postal Service should be realistically recognized for what it is: namely, a continuing obligation by the Postal Service to the American people to provide reasonable service at costs within their reach, and that such service and rates must to a meaningful degree be underwritten by appropriations approved by the Congress. There are few, if any, tax dollars that directly benefit so many citizens as public service appropriation for postal needs, nor any, for that matter, that are so immediately visible. It seems to me, therefore, that the public service function should properly be recognized with appropriate funding, and that such funding will have to continue indefinitely.

One of the most important problems facing mailers today is the matter of the ratemaking procedures and the role of the Postal Rate Commission.

As you know, currently proceedings before the Postal Rate Commission are controlled by the provisions of the Administrative Procedure Act which require adjudicatory type hearings.

These procedures are necessarily extremely time-consuming for all intervenors and the Postal Service. They have required an enormous outlay of funds for expert witnesses, as the areas of concern to the Rate Commission are seemingly ever more complicated and require intensive and in-depth research.

I have experts here on both sides of me, Mr. Chairman, and while I am the layman, I think I have become competent and a professional in the business of checkwriting. Our bills coming in are just unbelievable.

As a result, only a limited number of individual and association groups can and do fully participate. I question whether Congress intended that such an end product be the result of establishing a Postal Rate Commission. And now we are faced with concurrent hearings on both postal rates and classification, which will further tax our capacity to participate fully.

Another area of concern with the Commission under present law is the very limited degree with which it can and does consider important social and public policy questions, which Congress always considered important in its rate making deliberations. As the U.S. Court of Appeals stated in its opinion upholding the decision in the first rate case, and I quote :

If petitioners are aggrieved by asserted insensitivity to the unquestionably major contributions made to our civilization by the type of mail matter for which they are spokesmen, the remedy is legislative. The very books which petitioners and the court cherish instruct us that the judicial role is, and in a Constitutional democracy should be, limited. Ours is only to determine whether the Postal Service lacked substantial evidence for rates it prescribed, took into account irrelevant considerations, omitted relevant considerations, flouted a statutory command, acted *ultra vires*, or denied a Constitutional right. Nothing of those types of error is proved here. Petitioners' complaint is essentially political, not legal. Likewise, the remedy is political, not legal.

I recommend, therefore, that this distinguished committee consider some appropriate and necessary changes in the procedures of the Postal Rate Commission.

As a starting point, this committee might wish to consider, with some modification, the procedures it originally adopted in H.R. 17070 in April 1970. In that bill, a rate board was to be established; the current Rate Commission could replace it. Secondly, a possible modification as to procedures would be for the Commission to reach a recommended decision through an informal rulemaking proceeding, rather than a full adjudicatory proceeding. But most importantly, the Governors should retain limited powers to modify a commission's recommended decision, with the ultimate and final authority on rates resting with Congress, as it did under H.R. 17070.

The substitution of an informal rulemaking procedure for an adjudicatory procedure would surely hasten progress toward a decision in future rate cases and lessen the burden of participation in Commission proceedings. If such were to happen, then the 180 days recommended as a waiting period for the imposition of temporary rates not to exceed 10 percent of the current full rate in effect might be feasible.

But I hasten to add that such a substitute procedure, i.e. informal rulemaking, would be palatable only if Congress retained veto power

over rate increases. Without that, we would need full adjudicatory procedures. In either case, we would not wish to eliminate the role of the Governors.

In addition, there is another reason why I believe the Governors should maintain their role in Postal Rate Commission decisions. I refer to the current discussion now in front of the Commission on what is the proper costing methodology for the Postal Service to employ. A shift in this methodology can have a significant impact on the rate structure of all classes of mail over and above any rate proposal developed by the Postal Service.

Congress' decision with respect to the rate provisions of the act, and its assessment of the impact on mail users resulting from such provisions, were based on the costing methodology presented to the Congress by the Postal Service at the time the act was passed. Under that methodology, costs were divided between attributable and institutional. The act provided that all classes of mail would be required to cover attributable costs and an appropriate share of institutional cost judgmentally apportioned according to rate making policy factors outlined in the act.

The staff of the Postal Rate Commission is advocating a new costing methodology which would move toward fully distributed costs, a concept which was rejected by Congress in the Postal Reorganization Act.

The key purpose of Public Law 93-328 was to relax, slightly, the squeeze of higher postal rates on innumerable smaller newspapers, magazines, books, educational materials, and on charitable, religious, and other worthy nonprofit organizations.

We are most grateful for it. However, yesterday, Mr. Chairman, I received a phone call. It is in the press this morning, so I can reveal it.

We have said before to this committee that magazines would be curtailed. McCall's has announced it is cutting back on another million circulation.

Unfortunately, a gentleman who joined me here at one of our meetings, Mr. Joel Davis, has also announced the cessation of one of his principal magazines.

This was in the New York Times this morning. Unhappily, what we have said is happening today. We are concerned, however, that though Congress may have thought it helped magazines through the enactment of that law, all that will be gained may still be lost unless this committee also addresses this potentially more serious problem of costing methodology.

In your hearings on the operation and organization of the Postal Rate Commission held in January, you yourself state, Mr. Chairman, and I quote:

In the many years Congress fixed postal rates, no issue was more controversial than the Post Office cost accounting procedures. The Kappel Commission itself recognized the unsatisfactory nature of the old cost ascertainment system and came out against any fully allocated cost system.

Congress—at least by strong implication—accented this finding of the Kappel Commission, particularly reflected in the distinction in the Postal Reorganization Act between attributable costs and institutional costs assignable on the basis of service. Any move by the Rate Commission toward fully allocated costs would, in my opinion, go against congressional intent and require a major legislative re-examination of the ratemaking sections of the Reorganization Act.

Therefore, I am somewhat surprised that it appears that the Litigation Division of the Postal Rate Commission is moving in this direction. The Commission should very carefully weigh the vast implications of this move before it makes any decisions which could disturb the delicate balance of the ratemaking provisions of the Postal Reorganization Act.

A specific example of the concern this committee should have regarding a movement toward a fully distributed cost system for rate-making (or any system based exclusively or predominantly on cost accounting techniques) was made alarmingly clear in recent testimony before the Subcommittee on Environmental Problems Affecting Small Business of the Permanent Select Committee on Small Business, on May 3, 1974. Mr. James S. Lyon, speaking on behalf of more than 8,000 small circulation weekly and daily newspapers, warned against the threat of rate increases of more than 1,400 percent.

This could be accomplished, and I quote Mr. Lyon, "without any basic rate increase or a new rate request by the Postal Service. The proposal comes from a staff member of the Litigation Division of the Roth Commission. It calls for postal costs to be 'fully distributed' over all classes of mail."

As noted, Congress seemed to accept the finding of the Kappel Commission on fully allocated costs, basing its decision upon the new Revenue/Cost Analysis System presented by the Postal Service during hearings on postal reorganization. These views on the rejection by the Congress of fully distributed costs are supported by a reading of the Postal Reorganization Act as a whole, and, in particular, is supported by the requirement of section 3622, title 39, United States Code, that the Commission consider certain enumerated policies and factors in making its recommended decision on rates. For example, if the fully distributed cost of particular types of mail is considered to be synonymous with the "attributable" costs of that type of mail, there simply would be no way in which the Commission could apply the various judgmental factors required by section 3622. Moreover, there would be no way to accomplish the intent that certain charitable and nonprofit classes should pay lower rates than others.

The statement of the House managers made clear that attributable costs not only established a rate floor for each class of mail with a judgmental assignment of some part of the remaining costs, but also a ceiling on rates for certain preferential classes. The managers stated that "revenues" from rates on nonprofit preferred rate mailings shall not exceed postal costs for such mail excluding any portion of overhead or institutional costs."

In reporting S. 411 favorably, and by unanimous vote, this subcommittee would seem to have intended no departure from those fundamental ratemaking criteria of the Postal Reorganization Act. Specifically, we do not think that the provisions of S. 411 extending the phasing periods of the act should be taken as a justification to adopt fully distributed costs or any other costing methodology that would result in substantially higher rate increases for those classes eligible for phasing under S. 411. Such a costing system would result in postal rates that would severely injure all mail users, adversely affect the Postal Service, and substantially increase the revenue foregone appropriations from the general fund.

Thus, our concern that the Governors be eliminated from any review of the Postal Rate Commission recommended decisions is real. Further, as noted previously, we believe Congress can and should be the final arbiter, through the exercise of the veto power as it deems appropriate. Otherwise, important public policy questions will never be given serious consideration.

Finally, I would like to restate in front of this committee what I said before it nearly 1 year ago on the subject of the private express statutes. There is nothing in past history to justify the inclusion of magazines, newspapers, and other like matter within the definition of a letter. To include them, and then suspend them from coverage, seems unnecessary, and has the effect of having a club held over one's head, since the suspension could always be lifted some time in the future. Although the final Postal Service regulation which was recently adopted does not include newspapers and magazines within the definition of a "letter", it would still be appropriate for the committee to amend the private express statutes to exclude newspapers and magazines. Therefore, I strongly support the appropriate amendment in H.R. 15511.

Thank you, Mr. Chairman and members of the committee, for your attention to our remarks on behalf of some 450 largely consumer magazines.

MR. HANLEY. Well, thank you, President Kelly, for your excellent testimony. You made a number of fine points and certainly it is a recognition of your keen interest in this matter.

We look upon you as an expert.

Tell me, what is the informal ruling? Can you describe that and how does it differ from the procedure that is presently used?

MR. KELLY. I can tell you from my point of view as a layman. Mr. Chairman, that I have sat through numerous sessions of the Commission.

To my limited, and no legal background, it is a process that is simply endless, and we see no light down the tunnel.

With that, I really want to turn it over to counsel who has sat through numerous more sessions than either of us have.

He is constantly in court. He is in the trial on a regular basis.

MR. BURZIO. Mr. Chairman, I have spent a good part of the last 3 years before the Postal Rate Commission in the trial-type hearings it is required to have under the provisions of the Postal Reorganization Act.

The proceedings there are very similar to a trial in a court of law. You have to call witnesses, they have to be put on the stand.

All the lawyers who are representing parties have a full opportunity to engage in both written cross-examination—in the form of papers—and also oral cross-examination of all the witnesses that appear before the Commission.

Following the completion of the hearing—and the hearings in these two rate proceedings have lasted in excess of 1 year in each instance—the present proceeding is still going on—there is a provision for filing of briefs to the judge, and following that, reply briefs, and following that, appeals to the Commission, again with briefs and whatnot. It is a full-scale legal proceeding.

On the other hand, an informal rulemaking procedure would start, for example, with a publication of the Postal Service's proposed rate increase in the Federal Register.

Any party that was interested in it would have a certain prescribed number of days within which to file written comments stating his position or challenging the proposal. Then I would envision under this type of rulemaking procedure, since it is such a complicated matter, that the Commission would probably convene a series of informal conferences at which all of the parties could come together and speak across the table informally without having to go through the time-consuming process of putting witnesses on, being bound by all the rules of evidence.

I think it would, indeed, speed up the Rate Commission proceedings. I see no likelihood under the present statute, even if you amended it to provide 180 days before the Postal Service could impose temporary rates, that the Postal Rate Commission could ever reach a final decision in a rate case in that period of time.

Mr. HANLEY. Thank you.

Mr. Ford?

Mr. FORD. Well, given the provision mandating that the educational and cultural value of the material must be in consideration in the rate-making process, if you have this informal process you are talking about, how do you ever get through a specified issue to appeal it?

Mr. BURZIO. Well, there would be—all of the positions of the parties, and the information that they wish to have brought before the Commission would be before the Commission in writing.

You can appeal from a decision, for example, of the Federal Trade Commission or the SEC, other agencies, where an informal type rulemaking proceeding is held.

All the parties would still have the opportunity to present the same type of information to the Commission upon which it could act in writing its recommendations.

That record, that written record, would be before the court on appeal.

Mr. FORD. Well, we are, in this legislation, as you know, attempting to bring the Postal Service in general its fundings under the Administrative Procedures Act.

Most of us who are lawyers in the Congress have a great deal of respect for that act, because we feel most comfortable when there is a procedure which requires at a specific point a specific finding, that you can examine for the necessary statutory and common law content.

What puzzles me is how you would maintain that kind of a guarantee in an informal procedure.

Mr. BURZIO. Well, we are not suggesting that the Commission not have to make specific findings under the criteria of the act.

As a matter of fact, this informal rulemaking procedure we are suggesting is one contained in the Administrative Procedures Act and utilized by many Federal agencies.

Mr. FORD. When you use the term informal, you don't mean an informality—or a formality, rather, that is less than the accepted procedure under the Administrative Procedures Act.

Mr. BURZIO. I am suggesting there be a procedure which is less formal than the type of adjudicatory or trial-type proceeding where you

have to proceed through the process of putting witnesses on the stand, and you have to give every lawyer—and there are about 35 or 40 of them in these proceedings, an opportunity to go through full cross-examination.

I really don't think that the concern you have expressed, Mr. Ford, that it really would be there with the procedure we are suggesting, because what we are suggesting is that the Commission be authorized to proceed under section 553 of the Administrative Procedures Act.

Mr. FORD. One of my longest frustrations on this committee has been trying to get into the statutory language the consideration of cultural and educational value.

I would not want in any way to win that battle and lose the war.

Mr. BURZIO. One of the other provisions that we are suggesting is that if the Commission would be authorized to utilize the informal rule-making procedure, that there would be an opportunity for a mail user or group of mail users who feel they have been substantially aggrieved, or if they feel the Commission has not properly taken into account, for example, the feature that you are interested in, that they could petition the Congress and the Congress, itself, would have an opportunity to veto that recommendation.

Mr. FORD. Your conception of the kind of veto power Congress should retain would not be a limited veto to accept or reject a package, but the ability to actually amend that package?

Mr. BURZIO. It could take effect if the Congress did not act within the prescribed period of time.

Mr. FORD. When we talk about the President's veto power, he has to either sign the bill or veto it. That's it.

I anticipate from what you are saying now that you wouldn't contemplate that Congress would not just be limited to accepting or rejecting that which is proposed by the Rate Commission but would have the capacity to accept that with modifications?

Mr. BURZIO. I am not sure in our preparation that we focused on the issue that precisely, Mr. Ford.

Mr. FORD. I don't know at what point my legislative input would have importance if it were simply a process by which we voted yes or no—

Mr. BURZIO. On the overall decision?

Mr. FORD. Package proposal, or voted yes or no on a decision to reject the package. I would want some assurance that we had a legally sustainable—under the rules of the House—a procedure, where we could exert some legislative judgment on what the contents of that package would be.

Thank you very much.

Mr. KELLY. Mr. Chairman, I will be responsive to that same line of questioning, to make a point that I think your distinguished committee would want to know, or perhaps already does.

One by one the intervenors in the rate case—certainly in our area of our business, are dropping out of the rate race.

Granted, we are not about to drop out, and we will be foolhardy to so do, but I just think that it is an interesting observation of what is happening, that is going on under the present setup.

Mr. HANLEY. Mr. Kelly, again I want to express our appreciation on behalf of the full committee for your appearance here this morning.

Your statement is indeed comprehensive. You make a lot of good points that will be given a great deal of consideration by this committee as it deliberates the final version of the legislation before us.

So, again, our gratitude for your appearance and that of your associates.

Mr. KELLY. Thank you for letting us appear. Thank you for all your good work in getting at this problem, the legislation you have proposed.

Mr. HANLEY. I appreciate your kind remarks.

Our next witness this morning is Mr. Walter Grunfeld, president of the National Newspaper Association.

STATEMENT OF WALTER GRUNFELD, PRESIDENT, NATIONAL NEWSPAPER ASSOCIATION, ACCOMPANIED BY WILLIAM G. MULLEN, COUNSEL

Mr. GRUNFELD. Thank you, Mr. Chairman, members of the committee.

I would like to introduce to you William Mullen, the counsel of the National Newspaper Association.

Mr. Chairman, in view of the time limit, may I first say to you happily that I shall be as brief as possible; but I must inject greetings from the people that both of us know mutually.

I am more than happy to say that since you are my Congressman, I represent many of your friends and we are extremely happy to see you in the chair, and the success you have enjoyed in Washington. Thank you for all that you have done for our district, not only in postal affairs but in general affairs in Washington.

Mr. HANLEY. My deep gratitude to you, Walter.

Again, I take great pride in you as my constituent who happens to hold the highest position in that great association, the National Newspaper Publishers Association.

Mr. GRUNFELD. Thank you very much.

It is also a pleasure and a privilege for me to give you the views of the National Newspaper Association with regard to the amendments to the Postal Reorganization Act.

I am Walter Grunfeld. I publish the Marathon Newspapers and related newspapers located in the counties of Cortland and Onondaga, near Syracuse.

I am currently the president of the National Newspaper Association, an organization which represents the owners of 6,000 weeklies and nonmetropolitan daily newspapers in every State of the Union.

We have a lengthy statement, but this is a summary.

Mr. HANLEY. Without objection, the statement in full will appear in the record.

[The complete statement follows:]

PREPARED STATEMENT OF WALTER GRUNFELD

Good morning, Mr. Chairman. It is a pleasure for me to be appearing here today before my own Congressman to advise you of the views of the National Newspaper Association with regard to the Postal Reorganization Act and suggested amendments thereto. My name is Walter Grunfeld. I publish the Marathon Independent and other newspapers serving parts of Cortland and Onondaga Counties

near Syracuse, New York. Since July 26, I have been president of the National Newspaper Association, an organization which, as you know, represents the owners of weekly and non-metropolitan daily newspapers in every state. About 5,000 non-daily newspapers support NNA along with nearly 1,000 dailies. I am accompanied here today by William G. Mullen, NNA corporate Secretary and General Counsel.

Both personally and on behalf of the officers, directors and members of the National Newspaper Association, I would like to commend you Mr. Chairman for introducing H.R. 15511, a bill to amend the Postal Reorganization Act and for holding these hearings to deal with that bill and the suggestions of mail users for solving postal problems.

As you know, Mr. Chairman, NNA has supported the need for postal reform from the very beginning. Originally our position was based on the results of a survey of NNA members conducted prior to the enactment of the Postal Reorganization Act which indicated an overwhelmingly belief by publishers across the country of the need for major changes in the old Post Office Department.

Unfortunately, the Postal Reorganization Act did not end up being what we had originally expected in all respects. And the U.S. Postal Service with due regard to the sincerity of the motives of its top management line employees has not lived up to our expectations either.

We believe that postal officials sincerely want to improve mail service, and desire to serve the public, and keep rates down, but postal management seems unable for one reason or another to deal effectively with the problems it faces. Postal management seems unwilling to make the kinds of hard decisions that are necessary in order for significant improvements in mail service to occur.

For example, postal management has not required the standardization of envelope sizes (although it has requested a rate surcharge for certain oversized larger envelopes in the pending classification case before the Postal Rate Commission). It has failed in its bargaining with postal unions, giving everything the unions demand and getting nothing in return. This is a result which seems to indicate that postal officials, aware that the Rate Commission must give it whatever rates are necessary to cover postal operating costs, feel no reluctance to pass these costs on to mail users. These are but two examples out of several from which to choose.

You have heard others discuss these problems, and no doubt you will be hearing from additional witnesses with similar complaints as well as suggestions for improvement in future hearings. Our purpose in being here today is to advise you of the areas of the Postal Reorganization Act which we believe fall significantly short of the intentions Congress had in passing that law.

As is the case with most laws, some adjustments and fine tuning become necessary as the original document becomes tempered with the passage of time and occurrences in the real world which impact on its implementation. We appreciate the opportunity to work with you in developing improvements to the law.

I should emphasize that these points I am about to make are not the product of last minute decisions made by a few people in the dark of night just before this hearing. They have been thought out carefully in a process that has lasted several months. They began as staff recommendations following a close examination of your bill, H.R. 15511. They have been studied and refined in turn by NNA's Postal Affairs Subcommittee composed of publishers from around the country and then reviewed again by NNA's Government Relations Committee before being scrutinized and subsequently approved by the Association's Board of Directors. The proposals have been discussed in a meeting of a joint postal task force composed of members of NNA and the American Newspaper Publishers Association. Finally, Mr. Chairman, in September, our members had the benefit of receiving the views of several postal experts during a panel discussion on postal matters as a part of NNA's Fall Convention and Trade Show in Kansas City. Participating in that panel program were Ralph Nicholson, Senior Assistant Postmaster General for Finance, Richard Littell, a Washington attorney who was the first general counsel to the Postal Rate Commission and Victor C. Smioldo, Staff Director and Counsel of the House Post Office and Civil Service Committee.

The NNA Board once again discussed our postal policies following that panel discussion which, as you might imagine, was most informative and extremely helpful to us and those of our members who were able to attend.

As a result of this lengthy examination of the current status of postal reform, we make the following recommendations for revisions to that law:

PERMANENT PUBLIC SERVICE SUBSIDY

NNA supports the concept expressed in your bill, Mr. Chairman, that there should be a permanent public service subsidy to the U.S. Postal Service. Further, we believe that the amount of such subsidy should be a *minimum* of 20% of the prior year's actual operating budget for the Postal Service.

The reasons for such a subsidy are obvious. The Postal Service is first and foremost a vital national communications network. Its daily availability to every American citizen, rich or poor, is in complete harmony with the rich traditions of public services afforded by our government to all citizens. Such a concept of a national Postal Service is incompatible with a requirement that postage revenues alone pay all the costs of such a network. In the Postal Reorganization Act, this Congress has demanded that the Postal Service maintain equal service to all parts of the country, rich or poor, urban or rural, densely or sparsely populated. This means equal service for American citizens on the far northern slopes of Alaska and in the financial districts of our nation's largest cities.

Congress, in failing to provide for a permanent public service subsidy to the Postal Service, flew in the face of longstanding traditions. Earlier, in the 1950's, two different bi-partisan Congressionally-supervised bodies determined that public service costs of operating the U.S. Post Office Department amounted to between 13.1% and 17.3% of the Department's total operating expenses for two different years. At least one of these bodies enumerated additional items of hidden costs of postal operations, but did not attempt to place a dollar value on them because accurate information was not available. Details concerning these studies have previously been furnished to the subcommittee and for that reason, we will not go into them at this time. Suffice it to say that NNA strongly believes in the concept of public service subsidy for the Postal Service to cover those costs connected with maintaining the Postal Service as a national communications network available for the use of all citizens at a minimal expense. The 20% figure mentioned in H.R. 15511 should be considered a *minimum*, however, not a maximum and should not be preceded by the words "up to".

Even William O. Douglas, Associate Justice of the United States Supreme Court, recently addressed himself to this subject. In a speech last month to Fairleigh Dickinson University students, Justice Douglas said that the First Amendment is usually thought of in negative terms—as stating limitations on actions government may take against the media. But, said Douglas, the First Amendment leaves unstated "the powers that Congress or the states have to protect the press, to encourage publications, to promote the dissemination of a multiplicity of views."

While "the powers of Congress over the Postal Service and over the mails have been often used to suppress" obscene materials, mail fraud and others, Douglas said that the "power has also been used to give subsidies to the press through fees for mailing service".

Douglas goes on to say that his research of the history of postal rates indicates that "one early purpose was to 'encourage the dissemination of news and of current literature of educational value.'"

Douglas maintains that there are many logical candidates for special mail rates and after environmental publications, the renowned naturalist lists

"the country weeklies and the small community papers we find in America's cities and suburbs. These papers do not carry the big national or international news. But they do carry the news of the precincts and of the county. These matters are of primary interest to the local people.

"These media keep the grassroots of America alert, concerned and informed of local problems. They are the source of enlightenment for those who participate or should participate in the local discussions and debates. These papers indeed are an important cementing influence that makes neighborhoods out of diverse points of view, diverse ethnological groups, and diverse religious sects. The faraway federal bureaucracy gets more and more remote, increasingly impersonal and close to the lobbies that are its main directive force but foreign to local people. The government they know and can foster and enhance is in the local institutions. The small local papers are educational agencies that promote participating democracy at the lowliest levels. We the people should encourage that process; and a postal subsidy of these small journals and papers would fill a need that is mirrored in local concerns across the entire nation.

"These modest steps would give the First Amendment a positive thrust that would generate grassroots participation in government at a time when corporate control is getting dangerously close."

Evidently Justice Douglas in his cursory research into the history of postal rates for publications has grasped the basic traditions much more firmly than have the high-priced commissioners and staff at the Postal Rate Commission.

In connection with this subsidy, we also strongly urge the Subcommittee to draft legislation that will attach "strings" to this subsidy so that the Postal Service will have to account closely for and justify the expenditure of these funds or perhaps provide that the subsidy funds may only be used for certain purposes.

We realize that annual authorizations of the subsidy as suggested in H.R. 15511 would be one means of establishing firm Congressional control over the expenditure of public service monies. Such a procedure, however, could create severe difficulties for the Postal Service and users alike, stemming from the fact that the postal Service would be required to increase rates in order to make up any revenue deficiencies from the failure of Congress to authorize or appropriate these funds. The likelihood of such a problem occurring is very real. One need only recall the failure of appropriations to phase third-class rates and the failure of the administration to date to request supplemental funds to allow for the added rate phasing authorized by S. 411, the enactment of which you work so very hard for, Mr. Chairman.

Naturally the appropriations process cannot be dispensed with, but we believe that the insertion of an extra step requiring the authorization of an appropriation would be an unnecessary burden for the Postal Service and mail users to endure.

We would rather see a permanent authorization of the expenditure applied to an annual appropriation plus strict Congressional controls over the uses to which these funds may be put as well as their actual expenditure. In this latter respect, the General Accounting Office could provide a valuable service by closely supervising the expenditures of these monies.

SECOND-CLASS RATE CRITERIA

During the time since the enactment of the Postal Reorganization Act, our members have become increasingly concerned over the possibility that newspapers will one day fail to receive the special consideration which they have always believed the postal laws and regulations have long provided. Specifically I refer to special low rates for the distribution of newspapers as well as expedited delivery, nearly equal to that given first class mail for the dissemination of information in newspapers of weekly or greater frequency.

As you know, proposals have been made to the Postal Rate Commission which our members fear may have the long-range effect of eliminating a class of mail designed for the dissemination of news and information that is of vital interest and importance to American citizens.

We know that Congress has always encouraged the dissemination of news and information through the mails at inexpensive rates so that the public would always be well informed as to the activities of local, state and national officials, representatives of the people, as well as news of local, state and national occurrences.

We believe that Congress should continue to mandate such special considerations for the dissemination of information of value to the public through the mails. It can do so by providing more explicit statutory criteria for determining postage rates for newspapers, magazines and other materials that are eligible for second-class entry. For example, Congress could write into this new law a provision that "institutional costs" of the Postal Service for all of second class shall never exceed 50% of the total operating costs of the Postal Service for that class of mail, or simply, that at least for certain types of publications, rates should never exceed a certain level or percentage of costs. There are many ways to approach this problem and we will be happy to work with your staff in developing potential solutions. We realize that the present law already contains criteria for ratemaking, but we believe that they could be substantially improved by the addition of language guaranteeing a permanent class of mail for the dissemination of information through newspapers, magazines and other media and special rates for that class.

NNA also is of the opinion that the rate structure should recognize the fact that many newspapers engage in extensive mail preparation and many news-

papers even deliver sacks and bundles of newspapers to outlying post offices at the publisher's own expense in order to achieve timely delivery. Yet, these publications receive no recognition for this extra work which saves the Postal Service substantial amounts of time and money.

You might recall asking about the impact of postal rate increases on subscribers to newspapers in rural areas. Mr. Chairman, during our appearance here two weeks ago when we testified about postal service in non-metropolitan areas. At that time, you asked us to document any "fall-off in subscription rates subsequent to the rate increases" in rural areas where many subscribers are elderly and on fixed incomes.

We do not have any data that would document your question precisely but I do believe that we can answer it in the following manner. It is our opinion that subscription rates for weekly and smaller city daily newspapers serving rural areas have not kept pace with subscription rates for newspapers serving suburban and urban areas.

Further in almost every state with a large rural population the number of newspapers has decreased over the last 14 years while at the same time, the number of newspapers serving urban and suburban areas has increased. For example: the 1961 Directory of Weekly Newspapers containing statistical data for the year 1960 reports that there were 8,183 newspapers in business in 1960 with total circulation of 21,327,782. The 1974 National Directory of Weekly Newspapers published by NNA reports that there were 7,641 weekly newspapers at the close of 1973 with total circulation of 34,983,800.

The loss of 542 newspapers in that time can be attributed almost entirely to the fact that fewer newspapers serve states with large rural populations today than were in existence in 1960. We provide the following chart in support of that statement:

State	Number of newspapers in 1960	Number of newspapers in 1973	Difference in numbers ¹	State	Number of newspapers in 1960	Number of newspapers in 1973	Difference in numbers ¹
Alabama.....	114	109	-5	Nebraska.....	222	204	-18
Arkansas.....	136	127	-9	New Hampshire.....	36	31	-5
California.....	453	440	-13	New Jersey.....	248	205	-43
Florida.....	137	135	-2	New York.....	464	411	-53
Georgia.....	197	168	-29	North Carolina.....	147	136	-11
Idaho.....	74	57	-17	North Dakota.....	103	89	-14
Indiana.....	244	202	-42	Ohio.....	274	266	-8
Iowa.....	384	346	-38	Oklahoma.....	211	201	-10
Kansas.....	277	240	-37	Oregon.....	100	94	-6
Louisiana.....	107	93	-14	Pennsylvania.....	269	227	-42
Michigan.....	300	271	-29	Tennessee.....	128	119	-9
Minnesota.....	373	341	-32	Vermont.....	21	15	-6
Mississippi.....	109	95	-14	Washington.....	147	132	-15
Missouri.....	308	261	-47	Wisconsin.....	266	236	-30
Montana.....	76	71	-5				

¹ Total loss equals 603.

At the same time, Mr. Chairman, total circulation in each of these states has increased, in many cases almost doubling, a fact which we attribute to growth in metropolitan and suburban area newspapers at the same time their colleagues serving rural areas were going out of business. In addition, several states have more newspapers today than in 1960, thereby reducing the net loss of newspapers in this period to 542. We conclude that postal rate and other cost increases have had a more severe impact on newspapers and subscribers in rural areas, than in metropolitan and suburban areas.

We believe that Congress should explore the possibility of simplifying procedures for processing rate and classification matters. The present adversary type of proceeding before the Postal Rate Commission is extremely costly, unreasonably so for organizations such as the National Newspaper Association representing basically small businessmen across the country. Under the present scheme NNA is prohibited from effective participation in Rate Commission proceedings, to the detriment of its members. Congress might consider the possibility of allowing the postal Service itself to set rates subject to review by the courts, the Congress itself, or perhaps a "Blue Ribbon" commission or committee com-

posed of the members of Congress and the public or others. Perhaps it would be more simple to give Congress a veto power over rates established by the Postal Service or even over rates as they are recommended by the present Postal Rate Commission.

There are several proposals dealing with rate making during the early days of discussion on postal reform. Perhaps these discussions need to be reviewed with a purpose of discovering whether or not the present system could be changed and made less costly for mail users and U.S.P.S.

Due to the difficulty which NNA has in coping with Rate Commission proceedings, we cannot support the suggestion that the Rate Commission be given even more authority over final rates by making Commission decisions final and appealable only to the courts.

Our experience with the Rate Commission is that it is composed of and staffed by persons largely unfamiliar with the historical concepts of the Postal Service. They regard USPS as a money-making utility and fail to recognize its role as a public service-oriented national communications network.

Only recently did the Commission receive its first member since its inception who has been familiar with postal matters prior to being appointed to the Rate Commission. Others, both Commissioners and staff personnel for the most part appear to have come from agencies responsible for regulating gas transmission lines, sand and gravel transportation rates and the like. It is difficult to impress upon this group the historic traditions surrounding the development of a class of mail for the delivery of newspapers and other literature at inexpensive rates so that recipients can afford to subscribe to a variety of publications and news sources.

It is for these reasons principally that NNA has problems supporting efforts to strengthen the hand of this organization. Indeed, it is hard for NNA to refrain from suggesting the complete abolition of the Rate Commission in favor of much simpler means of establishing postal rates.

NNA does not believe that Congress intended to institute a system whereby mail users would be paying temporary rates for longer periods of time than permanent rates.

The complete elimination of the Postal Service's authority to institute temporary rates would go a long way, we believe, toward holding down rate increases and postal costs. As an alternative, NNA endorses the proposal in H.R. 15511 to extend the waiting period to 180 days before temporary rates take effect. If the Postal Service were not guaranteed a means whereby they can automatically institute rate increases within 90 days of their request for higher rates, perhaps postal management would concentrate more heavily on ways to contain increases in operating costs including wages and other benefits accorded to postal employees.

As matters now stand, there is no control over either postal costs or postal rate increases outside of the Postal Service itself. Postal management has the final indeed, the only, say on whether costs will increase. It simply presents the fact of cost increases to the Rate Commission which has no say over temporary rates and little choice but to grant permanent rate increases as requested, modifying only the rates various classes will pay and not the total revenue requested by the Postal Service. This is true despite the fact that temporary rates are usually as high as the first step of the permanent rate requested and in the case of first-class as high as the full rate requested. All that can be done is to sit by while a lengthy proceeding takes place during most of which temporary rates are in effect. Even if the Rate Commission were to refuse to recommend a rate requested by the Postal Service, the Board of Governors could simply file a new request thereby automatically instituting a new temporary rate. Automatic temporary rates must be eliminated or severely restricted.

The Board of Governors of the Postal Service has a potential for acting as a barrier between Postal Service management, and the public, which the Postal Service is supposed to serve and to whom it is ultimately responsible through our representatives in Congress.

NNA suggests that Postal management and the Board of Governors be made more directly responsible to the Congress. We are not advocating the return of "politics" to the Postal Service, but we do advocate closer Congressional responsibility and authority for postal operations.

We also recommend that Congress consider having the postmaster General appointed by the President subject to the advice and consent of the U.S. Senate

instead of having this position filled by the Board of Governors. The Postmaster General could be required to report directly to the President and the Congress and ultimately be responsible to them for the management of the Postal Service.

BINDING POSTAL MANAGEMENT DECISIONS

Newspapers as well as other businesses have great difficulty comprehending how the U.S. Postal Service, following lapses of up to three years can come back to a publisher or other mail user and demand payment for "revenue deficiencies." These deficiencies occur when an audit of a local post office and heavy mail users mailing at that post office reveals that a mistake was made, by the mailer and local postal officials in accepting certain items at certain rates of postage. Quite often it comes up in the cases of newspapers carrying pre-printed inserts or supplements. Many times it is simply a miscalculation of postage. Postal regulations on supplements which endeavor to set forth certain criteria under which supplements may be carried as part of newspapers, for example, are most difficult for even experienced postal officials to understand. If these criteria are not met, then the mailer is required to pay the single piece third-class rate for each "illegal" supplement. We are aware of cases involving relatively small newspapers where the revenue deficiencies in such cases have amounted to several thousands of dollars. Often compromises are achieved and the Postal Service accepts lesser amounts, but the principle is what bothers our members who are used to dealing under ordinary business practices. Ordinarily if a businessman makes a mistake in what he charges for an item and does not discover the mistake for several years, (or even a few days) he makes no attempt whatsoever to recover the difference between what was actually paid and what should have been paid. Even if one of his agents made the mistake, the businessman accepts it as a mistake and simply resolves to improve his procedures so that such mistakes do not occur in the future.

This is not the case, however, with the U.S. Postal Service which, since postal reform, has been endeavoring to establish an image as a business operation.

NNA believe that specific limitations need to be established on the Postal Service's ability to collect such revenue deficiencies. Three years is much too long a time for the Postal Service to be able to go back and collect such monies. We do not believe that it should be able to collect for any revenue deficiencies where the mistake is at least partially attributable to its own employees. (This is the case in almost every instance, particularly with regard to supplements.) Just last week, we became aware of an instance where a U.S.P.S. customer service representative had "approved" a pre-printed insert as a supplement without even asking for data to support his action. Three years later this could be a postage deficiency case. If Congress is of the opinion that the Postal Service should be able to collect for certain types of revenue deficiencies, we believe that the time period for which such collections can be made should be limited to no more than six months. We realize that postal regulations are difficult for most small businessmen and most Postal Service officials at small post offices to comprehend and we realize that mistakes will occur. These are honest mistakes, however, and we do not see why a business, particularly one of such vital necessity to a local community as a newspaper, should be threatened with closing its doors due to an unreasonably large bill for a revenue deficiency from the Postal Service.

At the same time, NNA believes that the postal laws should be changed to require the Postal Service to pay damages to mail users for lost or substantially delayed mail. Many of our members cite instances where subscribers just never receive copies of certain issues. One subscriber to an Ohio newspaper estimates that she only receives about 60% of the copies for which she pays.

Oftentimes, publishers report the advertising insertion orders are not received in time for publication. This is money lost to the publication since advertisers do not pay for ads that are not published.

Thanksgiving Eve, NNA learned of a case in the mid-West where the post office "lost" 4,200 copies (the total mailing) of a newspaper mailed a day earlier than usual in order to be delivered in time for subscribers to review the news and ads in advance of Thanksgiving. We have learned that the papers began trickling back on Thanksgiving and that most were delivered by Friday. Present law prohibits the collection of damages in such cases and NNA believes that this should be changed.

Certainly the Post Service has an obligation to educate its own officials as well as to assist in the education of large mail users in what is acceptable and what is not acceptable at the various rates of postage. NNA has always endeavored to assist in this educational process, but it is a difficult message to get through. We will be happy to work with the Congress as well as the Post Service in developing some criteria for implementing this recommendation.

Finally, with regard to the private express statutes, it is our strong recommendation that the Congress, in spite of the fact that the Postal Service has recently issued final regulations "excepting" newspapers from the scope of the private express statutes, should provide a statutory definition of "letters" which would forever more exclude any possibility of newspapers being considered "letters" for purposes of the private express laws.

Our members were shocked recently to learn that an interpretation of the private express statutes could possibly include newspapers as a letter. Certainly newspapers, although often referred to as "letters from home", are never considered technically as letters by publishers or anyone else.

If such a misconception on the part of those responsible for enforcing the private express statutes is possible, under the present laws, we believe that they need to be revised to exclude that possibility.

In closing, I simply want to reiterate the fact that NNA does not endorse repeal of the Postal Reorganization Act. We are encouraged by many things we see in the USPS. But in all honesty we are discouraged by many others. We are of the opinion that corrective, not radical, surgery is called for, however. This can be accomplished, we believe, by increasing the role with Congress plays in postal management decisions, by increasing Congressional supervisory powers over the Postal Service and by making the Postal Service more responsible to the Congress and through it, to the people it is designed to serve.

Mr. Chairman, we sincerely appreciate the opportunity to give you our views and we will be happy to work with the Committee towards improvements to the Postal Reorganization Act.

Mr. GRUNFELD [continuing]. The benefits of reorganizing the old Post Office Department have not come up to the expectations of those who, like NNA, supported postal reform.

Some significant improvements have been made, but there are many areas which still need significant attention.

H.R. 15511, which we support in main, deals with many of these areas and NNA has other suggestions to make.

NNA is vitally concerned with good mail service at reasonable rates and postage. We have been studying postal affairs since the time of postal reform and beyond. Postal matters occupy a significant portion of the time of many of our key committee people, including directors and officers.

NNA supports a permanent public service subsidy for the Postal Service. We also agree with you, Mr. Chairman, that 20 percent of the prior years actual operating budget of the Postal Service would be an appropriate figure to consider for purposes of this subsidy.

We suggest your bill be amended, however, so that the 20 percent figure is a minimum and not a maximum. Such a subsidy would recognize the fact that the U.S. Postal Service is a valuable national communications network and would help pay for the cost of maintaining that system.

Our statement contains several quotations from and references to a recent speech delivered by U.S. Supreme Court Justice William O. Douglas, in which he speaks for the merits of subsidizing the U.S. Postal Service for the purpose of allowing citizens to keep aware of developments in local government by subscribing to newspapers.

Many of our members have heard the proposals being made by and to the Postal Rate Commission which they fear could spell the

end of a class of mail designed to assure speedy and relatively inexpensive delivery of publications to subscribers.

For this reason, our statement suggests the establishment of additional criteria to be used by those charged with establishing postal rates for publications serving the public.

We believe that these new criteria would be reasonable, particularly if Congress sees fit to establish a permanent public service subsidy for the Postal Service.

We believe that the rate structure of the Postal Service should recognize the fact that many newspapers even deliver sacks and bundles of mail at—to outlying post offices at the publishers' own expense in order to achieve timely delivery and reduce the burden of the Postal Service.

We believe this fact should be recognized in the formal postal rate structure.

If I may just add to this formal statement here, in my own shop we employ 12 people every Monday to handle a specific phase of mailing for the purpose of following district instructions as required by the U.S. Postal Service. This completely turns our normal operation upside down. An operation like mine is not equipped to bring in people for 1 day a week to follow a specific procedure.

However, in order for us to meet the requirements of the law, we gladly do it. I am sure I am not alone when I say that publishers who are required maybe for 3 or 4 hours 1 day a week to supervise 12 people, find this almost a nightmare.

These are some of the experiences. Again, because of the shortage of time, I am not at liberty to give you some more of my own experiences.

Two weeks ago, Mr. Chairman, during NAA's appearance in hearings chaired by you, you asked NNA to document any fallout in subscription rates subsequent to the rate increase in rural areas, where many subscribers are elderly and on fixed incomes.

Our formal statement contains information related to this question and substantiates, we believe, our view that subscription rates for weekly and small city newspapers serving rural areas have not kept pace with subscription rates for newspapers serving suburban and urban areas, and in addition that postal rates and other cost increases have a more severe impact on newspapers and subscribers in rural areas than on those serving metropolitan and suburban areas because rural newspapers try to keep rates low.

Regarding rate and classification procedures, our statement, I believe, makes clear the frustration which NNA has faced in attempting to deal effectively with the Postal Rate Commission.

Our statement suggests to the Congress that it study more simplified means of determining postal rates and that it consider seriously the possibility of making major changes in the present adversary evidentiary proceeding called for by the Rate Commission.

Regarding the proposal to extend the waiting period for the institution of temporary rates under the Postal Reorganization Act to 180 days, NNA suggests that Congress should seriously consider eliminating completely the Postal Service's authority to institute temporary rates.

We believe that the fact that the Postal Service has unfettered authority to institute temporary rates in order to allow it to keep

rates in line with costs, is a contributing factor to what appears to be a lack of concern at the Postal Service with its cost of operation.

Our statement also makes recommendations that Congress consider applying the Postal Reorganization Act so that the Postmaster General be appointed by the President subject to the advice and consent of the U.S. Senate, instead of the present system whereby this position is filled by the Postal Service's own Board of Governors.

We believe Congress should demand that the Postmaster General and the Board of Governors report directly to the Congress and to the President in order that the Congress may establish firmer control over the postal system.

Our formal statement also takes issue with the present system whereby the Postal Service is allowed to collect from publishers and other mail users postage deficiencies for materials that have been carried as part of newspapers at regular second class postage rates, but which, due to some technicality, should not have been so included.

This, gentlemen, represents another nightmare; and unfortunately, time does not permit me to elaborate on that.

I might add here also that this so-called "technicality" provides as much displeasure and nightmare experiences for local postmasters as it does for local publishers.

Under present practice, the Postal Service is allowed to go back for as long as 3 years after the material has been mailed in order to collect such deficiency. Being a victim ourselves of such a deficiency, I speak from the bottom of my heart.

NNA does not believe that this is a business practice and urges the Congress to examine means of limiting the Postal Service's authority in this area.

We also believe that Congress should establish more stringent liability for the Postal Service, for the loss or serious delay of mail which causes a financial loss to the mail user. Present practices do not allow the Postal Service to pay damages in such cases, but NNA believes that this subject needs to be reexamined.

Finally, with regard to the Private Express Statutes, it is NNA's strong recommendation that the Congress in spite of the fact that the Postal Service recently issued final regulations excepting newspapers on the scope of the Private Express Statutes, should provide statutory definition of letters which would exclude any possibility that newspapers would ever be considered as letters for purposes of private express laws.

In closing, then, Mr. Chairman, I would simply like to reiterate the fact that NNA does not endorse repeal of the Postal Reorganization Act. We are encouraged by the many developments we have seen in the years the semi-independent U.S. Postal Service has been in operation. But many factors are equally discouraging.

We believe, however, that corrective—not radical—surgery is called for. We believe that your bill, 15511, is an appropriate vehicle for this type of operation, and we are hopeful that the Congress in its wisdom will, in the near future, increase its role in postal management decisions, will increase its supervision of the Postal Service, and by exercising such powers, will make the Postal Service more responsive to the Congress and through it the people it is designed to serve.

Mr. Chairman, gentlemen, we are always ready to work with you and your staff in implementing suggestions for changes to the Postal Reorganization Act.

We sincerely appreciate the opportunity to give you our views and we will be happy to try to answer any questions that you or other members of the committee might have for us.

I might also add that Mr. Serrill, the Executive Vice President, is sorry he could not be with us today. He is appearing before the Senate subcommittee investigating newsprint supplies and prices.

Finally, one or two more sentences, Mr. Chairman.

I don't think that I can ever impress upon you, the committee, the Postal Service, the integral part that the U.S. Postal Service plays in the survival of not only the weekly, but all printed matter in this country.

Naturally, I am here representing the weekly and the small dailies. It's not secret that without the U.S. Postal Service acting as partners of our publishing houses, we could not do business. I am not an expert in rates. I am not a lawyer, but I am a publisher, and I know what my readers are looking for, and I also have a close relationship with several postmasters, about 6, and have had as publisher for over 20 years.

The time has come, gentlemen, for us to recognize what we on the grassroots level are doing for the country and what conceivably could happen if our subscribers could not afford our services and conceivably what could happen if a rate imposed or a service rendered is unsatisfactory or unrealistic.

For that reason, Mr. Chairman, and gentlemen, I can assure you on behalf of my colleagues throughout the United States that we are more than willing to work with you as closely as possible and your colleagues in solving this dilemma.

We know the agony that you go through and we have the same agony. Our common goal is service to the public, and I think we have to, as you say so much, Mr. Hanley, bite the bullet, even if it bites back.

I think this is a very serious problem. I don't often have the opportunity to come to Washington to appear before you and this committee, so while I do have the opportunity, I cannot reflect enough the importance and the urgency of the concern felt by my colleagues who are all interested in public service.

Thank you, very much.

Mr. HANLEY. Well, thank you, Walter, for your very fine presentation and, in my judgment, and I am sure my colleague to the left shares this judgment, that the National Newspaper Association is indeed fortunate in enjoying your talent and permit to enunciate its position here today.

Your testimony, as I had anticipated, is excellent. It's very objective. You're telling it as it is, and I like your terminology, "corrective surgery." That is what this endeavor is all about.

The implementation of the Postal Reorganization Act of 1970 really produced an era of trial and error. Many things were tried; many errors were made. Hindsight is always better, so this effort, as I mentioned earlier, hopefully will result in the elimination of many shortcomings presently prevailing.

May I ask with regard to your specific newspaper operation, over the course of the past 5 years, what would the percentage increase be so far as your postal bill is concerned?

Would you be equipped off the cuff to tell us a little bit about exactly what increase mailing costs—what effect they have had on your operation?

Mr. GRUNFELD. We use second- and third-class mail. It's always a shock to me—it might be to you—when I hear the figures of what we pay the U.S. Postal Service.

Last year, we paid \$50,000, to the Postal Service. I will admit that this represents first class and third class in addition to second class. I am not dissatisfied with either old or proposed second class rates under S411.

I am concerned more about what I hear, such as the elimination possibly—I may be speaking out of turn, but these are things that I hear that I think maybe I should pass along to you—the elimination of second class.

If in the event second class were eliminated, I'd have to go into first class, which would make it impossible to mail to my subscribers and pass the cost onto them, or third class.

However, the fact that you are interested in all classes of mail and that many publishers like myself use various classes, and what we pay in totality—and if a small operation in a rural area pays \$50,000 a year, you can be sure that there are others who pay more because I am not really an average circulation.

You see, I am smaller than the national average. Rates have gone up substantially. The highest, of course, was third class.

Second class rates, I believe, we can live with.

I hope I have answered that for you.

Mr. HANLEY. Well, thank you, Mr. Ford.

Mr. Ford?

Mr. FORD. Thank you, Mr. Chairman.

I am a little puzzled by what seems to be a very strong inconsistency in your position here. In your conclusion, you say:

We are of the opinion that corrective, not radical, surgery is called for. This can be accomplished, we believe, by increasing the role which Congress plays in postal management decisions, by increasing Congressional supervisory powers over the Postal Service and by making the Postal Service more responsible to the Congress and through it, to the people it is designed to serve.

I couldn't agree with anything more. It is for precisely that reason that I would hesitate to support this bill, if its provision for automatic referral of postal matters to this committee were dropped.

You make a very strong statement earlier in your statement:

Naturally, the appropriations processes cannot be dispensed with, but we believe the inversion of an extra step requiring the authorization of an appropriation would be an unnecessary burden for the Postal Service and mail users to endure.

The effect of accepting that recommendation by you would be to divest others of any effective supervision of the Postal Service, and it is that particular section that you are objecting to here, that is, the

handle that would put Mr. Hanley and this committee in a position of being a necessary group of people with whom we would clear major decision in Postal Service.

We went through a very painful ordeal earlier in the year when some of us on this committee were accused of being "stand pat reactionaries," by our friends in Congress who quite cavalierly thought this committee was so moved, that it could very well be tucked away in one of a couple of committees that they suggested.

I am a member of one of the committees they suggested sending it to. I can guarantee you that your concerns would be reached when we got around to it in 4 or 5 years from now, with the agenda we have before us.

It has been a battle of some expense to maintain this committee, and the reason that we had substantial support from the other side of the aisle—much more than those who disagreed with us expected we were going to have—is precisely because they believed that if this committee was not here, there would be no hope to return to the Congress and continuing examination and supervision of policy decisions being made in public service by people who are not reachable by the public and for the most part aren't even known to the public.

They don't run for reelection and they don't have to answer to an opponent. We do. In that, the people have some protection, as bad as the Congress may be from time to time, or perhaps continually as an institution. It is the only institution that the people have a chance to express their will toward, and they do that every 2 years.

In view of that, do you still feel that the possible inconvenience of having to watch our activities closer than we do now would weigh heavily enough with you to oppose that kind of procedure?

Mr. GRUNFELD. Mr. Ford, in our mutual activities, we have to wear several hats. I think I represent a large group of publishers who feel that ideally, you should take back the responsibility of the Postal Service.

However, even this morning, Mr. Johnson made it quite clear that there is no such possibility. We hear this.

Therefore, we have to approach the position as, well, there is no such possibility that this will be returned to the Congress. What then do we do to work with the Postal Service?

Mr. Hanley's bill comes along which has appeal to us, and when we see there is a 20 percent subsidy provision, we like to address ourselves to that for the improvement of service.

I hear tell by my colleagues that they would hate to see this entire 20 percent used for safety purposes or new construction purposes or paying higher gasoline rates.

Mr. Klassen came up with a figure on that before the National Press Club. We would hate to see the 20 percent used for that.

We would like to see it used for service to the reader, so he could benefit from this subsidy.

I too, find this inconsistent. Here on the one hand, ideally, we would like to see you take this back, except maybe this postmaster appointment situation, which is really a horrible thing.

We feel there is a great opportunity for getting this mess in the department straightened up. Your heart, your very interest, your existence is involved in getting the Postal Service where you would like it to be.

Since this doesn't seem possible, Mr. Mullen, Mr. Serrill and my colleagues have to address ourselves to the alternatives.

Perhaps I am wrong here.

Mr. Ford. I think we are getting away from what I am trying to get to. I might take the opportunity to do a little politicking with you.

If organizations like yours oppose that part of this bill, that would force the Postal Service in here every year, we are dead.

Now, the Postal Service is very strongly opposed to that provision because they don't want to have an automatic process.

It is much more difficult to get a bill like S. 411 off the launching pad as an independent endeavor. As you know, we were very badly defeated with our first attempt when we went to the floor. We had to strip everything off of it that you can imagine, to get by.

There is no provision in here that would say that the authorization of funds would be an annual authorization. In many committees around here, we authorize programs indefinitely and we authorize them for fixed periods of time. Education programs are now normally doing it in 5-year multiples, but I am told that system of the members of Magazine Publishers Association don't like this. It is very interesting that people who, on the one hand say that they trust the Congress more than the bureaucrats on the other hand are reluctant to see that committee, which myself excluded, has a basic accumulation of experience and expertise in the matter of the Postal Service not being the central committee in handling it.

Obviously, the Appropriations Committee isn't going to like this provision because they will have to share responsibilities, which translates on the Appropriations Committee into power; the power of the pocketbook around here is power.

So, it is not possible for us to win in this situation unless the people who are most concerned can come together on just how they would like to see the Congress exercising this supervision.

For my own part, I don't think you gain a darn thing if there is an automatic authority for the Appropriations Committee to once a year consider the appropriation. That is going to happen anyhow. That is no change, and the track record will show you that they spend little time getting into the problems of the Postal Service and respond in large cuts of the axe or the knife to pressures being exerted from one side or another.

And at best, they come up with a compromise that is a dollar compromise. They do have little policy considering over there, not only in this area, but in other areas under the jurisdiction of the Appropriations Committee, because it was never contemplated, although they do do it, that the Appropriations Committee was necessarily a policy-making committee.

They continually find ways to take that power onto themselves. The rules of the House, for example, say that they shall not legislate under the appropriations bill. The Rules Committee habitually gives them a

rule waiving a point of order against legislation that they write on appropriations bills.

It is clear that the wisdom of our predecessors here was expressed when they said that the Appropriations Committee should not be a committee that makes policy decisions and legislates. It should provide that level of support financially for the productivity, the work productivity and the rest of the legislative process around here.

I hope you would give more thought to the position that you have expressed here in that categorical way.

With those things in mind, I consider the possibilities of a more effective supervision of the Postal Service than we have now——

Mr. GRUNFELD. Mr. Ford——

Mr. FORD. Your position really is for no change.

Mr. GRUNFELD. May I ask you two brief questions?

You have tangled with this problem for many years. You obviously are extremely well versed in the subject, much more so than a publisher. Do you feel that they are selfish to the problems we are facing?

Mr. FORD. Certainly.

Mr. GRUNFELD. Do you feel the print media, particularly the second class print media, can be of greater service to you as a committee, than we are now? Would you like to see us review our posture in order to solve the problem?

Mr. FORD. I would like to see you review your posture because your influence on those people we are going to have the most difficulty with is a very measurable force. I would much appreciate it.

I notice, for example, on page 8, you have a list showing the decrease in the number of newspapers between 1960 and 1973 who are weeklies. In my state of Michigan, you show that from 1960 to 1973, you went from 300 newspapers to 200 in 1971.

There is a very important element that is missing from this. At the same time the number of newspaper owners was reduced by 700 percent, and in Michigan, we now have a very few people controlling the majority of the weekly papers. And there is a meeting held at the country club each fall for all of the editors assembled from around the State to receive from on high the philosophical editorial dictates for the forthcoming year, which includes a list of those candidates who will get coverage during the forthcoming elections and those for whom there will be no space.

Your people don't play this game with even a velvet glove on the iron fist in my State.

I know how political they can be when they want to, and I am suggesting that if they follow the leadership of you or your board along the lines that are suggested in here, you will doom our efforts to failure.

I am not trying to be critical of the industry. I am trying to acknowledge that from my point of view, you are, in fact, an important political force. On an issue like this, you could be decisive. I would hope that we would be able to enlist your assistance on the view that I hold.

Obviously, that is what I am trying to do. This is my way of thinking.

Mr. GRUNFELD. Your State has extended the courtesy to invite me to its annual conference, to be the principal speaker. Perhaps you will be there also, and we can do a little politicking.

Mr. MULLEN. Could I respond to your concern? I think I can state that without any hesitancy at all, that we are not here to submarine this bill. We are not trying to praise you on the one hand and damn your efforts on the other.

I can understand your questioning along these lines. I don't think our statement says that we are opposing the authorization process. We question it. We question whether there might not be another better way to do this. We were assuming that we were talking about an annual authorization process, to be honest with you, even though the bill may not say that specifically.

If it were to turn out to be something along the lines of a several year authorization, with hearing from time to time, that might meet our objectives.

Mr. FORD. Counsel points out the present language of the bill does call for an annual authorization.

Mr. MULLEN. In any event, this is something that we would like to discuss with members of the committee and with the staff as to whether the authorization process is the best way to go, or whether or not there is another way.

Our statement, I think, is very strong. We definitely want Congress to either in advance, when they write the legislation, write restrictions right into it, so that you will have a very firm tie on exactly how this money can be expended, and even if whether or not it can be.

Our fear is that if we have to go through an annual authorization process, in addition to the annual appropriations process, that this would lead to some question about how definite the rate schedule could be for any period of time in the future, and we very definitely appreciate the fact that you have already allowed us to program increases over a period of time so that we can compensate for the postage rate increases with rate increases of our own over a period of time instead of having them go into effect all at once.

Our fear is that that calendar would be disturbed, perhaps if the Postal Service did not get all or any or only a small portion of the funds for this public service subsidy, which is the same reason we are rather anxious about establishing the 20 percent or some figure, as an absolute, as a minimum at least, rather than as a maximum.

Again, going to the same question: So the Postal Service knows and we know, how much money generally it can plan on for the coming year, for the coming period of several years.

Maybe your suggestion of a 5-year authorization would be one that we could agree on. We are certainly willing to work with you on this question.

Mr. FORD. I wasn't suggesting a 5-year authorization. I was merely indicating that the customary way in which authorizing committees operate around here is to authorize for what they think is an appropriate time.

Now, I fought very hard just a week or so ago in the Education and Labor Committee to reduce the public service employment bill, which is absolutely essential to my depressed area from a bill that would run until July 1, 1977, to one that will expire next July 1 or June 30, which is going to be hard to explain: Why am I fighting the public service employment bill?

The answer is that I think the new Congress is going to be far more generous than this Congress, in terms of that bill, and I want the damn thing to come up so I can get another shot at it.

Those are the kinds of considerations that will come into play in this authorizing process. If things are going along, the Congress will be happy, the postal department will have no trouble getting a 2-, or 3-, or 4-year authorization for its primary functions. But they might get a 4-year authorization for some things and a 1-year authorization for some other things.

I would like to have an annual chance, for example, to see how many cops they are putting on that new police department they created over there.

I almost drove off the road when I saw a convoy the other day, cars with the bubble machines on the top of them that says, "U.S. Postal Security Forces."

We don't even trust the cops any more. We have our own. When the Army goes down the street around here, there is a local police car in front and in back. When a Postal Service runs a truck down the George Washington Parkway, it has one of its own in front and in back.

Now, I have some question about how far we want to go in building another police force in this Government. So, that one I would be reluctant to authorize for more than a temporary period.

It would make a difference. We place in our hands, however, a good deal of flexibility and responsibility. We will have to face the decisions.

There are members, as you heard here, that are just as glad to sit on this committee and not have to decide the tough ones. Nobody wants to go back to the 1967 rate hike, but when you said "bite the bullet," we have to make a decision.

Either we should be here doing something, or sit back and become a nice retirement haven.

Mr. HANLEY. Thank you very much, Mr. Ford. I note that we have a vote in the House, which requires that the committee now recess.

I am distressed as I note the statistics compiled in your statement here, Walter, whereas our State, that is, the great State of New York, has suffered the greatest loss from the standpoint of newspapers which have ceased to publish during this time frame.

New York has lost 53. That is most regrettable.

Again, on behalf of the full committee, I want to express our deep appreciation for your time, effort, and input. Certainly you have greatly assisted our deliberations in all of what you have said.

It will be taken under consideration as we proceed. Hopefully—I shouldn't say hopefully—we will be soon producing a clean version of 15511, which will incorporate a number of new features, not contained in the present legislation.

You are part of that.

Again, I commend you for your excellent service, your association. I commend the good judgment of those responsible for your being elected to that office.

I see that you are associated with some good counsel who from time to time have been in contact with us on issues of concern to your association.

With that, I again conclude with a note of gratitude to you for your appearance this morning.

Mr. GRUNFELD. Thank you, Mr. Chairman.

For the record, may I say while perhaps we have lost a number of signatures as such, mastheads, the circulation of the total number of newspapers, weekly newspapers in the United States, has risen substantially. It is the ownerships and signatures that have regretfully declined.

I do thank you for the opportunity.

Mr. HANDLEY. The hearing stands adjourned until call of the Chair. [Whereupon, at 1:05 p.m., the hearing was adjourned, subject to the call of the Chair.]

[The statement and letter which follow were received for inclusion in the hearing record:]

STATEMENT OF DAVID A. BUNN, EXECUTIVE VICE PRESIDENT, THE PARCEL POST ASSOCIATION

I am David A. Bunn, Executive Vice President of the Parcel Post Association. The Parcel Post Association consists of approximately 200 members, primarily small businesses, from every section of the country. The Association has been in existence for several decades during which time it has concentrated its attention upon the maintenance of a viable parcel post service, which is used by Association members to ship parcels to their customers. Although members of the Association make use of virtually all classes of mail, other than second class, I will concentrate my attention today upon parcel post service.

I do intend to make brief comments addressed specifically to the legislation which is being considered by this Committee. Initially, however, I am most interested in focusing this Committee's attention upon the current condition of the parcel post service and the fears that I have for the future of an adequate parcel post service.

The first words of the Postal Reorganization Act are:

The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States . . .

The Act goes on to state that the Postal Service shall have as its basic function the obligation to provide postal services to bind the nation together through the personal, educational, literary and business correspondence of the people. Clearly, of course, these principles apply to parcel post as well as to the other types of mail. In its report on the Postal Reorganization Act, the Senate Committee stated its expectation that "the historic principle of delivering packages through the Postal Service will be fulfilled." I regret to report to you, however, that despite the explicit and clear directions found in the Postal Reorganization Act, the continuation of present trends will threaten the continued existence of a viable parcel post service. Indeed, I am not being over-dramatic in stating that the acceptance of certain rate proposals now pending before the Postal Rate Commission would reduce the parcel post service to a residual service carrying only the most expensive traffic. The inevitable result would be that rates for individual parcel senders, the so-called Aunt Minnie traffic, would become excessively high. Further I would like to emphasize that even though I am representing business shippers who participate in the parcel post system, these businesses ship their parcels to individual residences almost exclusively, i.e. Association members are involved in business-to-individual shipments as opposed to business-to-business shipments. Thus, of course, the rates that are paid by Association members for parcel post service have a direct and immediate impact upon the customers to whom such shipments are made.

The severe problem which faces parcel post service is graphically illustrated by reference to the decreased volumes of parcel post:

	<i>Millions</i>		<i>Millions</i>
1966 -----	744	1970 -----	570
1967 -----	725	1971 -----	536
1968 -----	664	1972 -----	498
1969 -----	644	1973 (estimated) -----	477

As shown, parcel post volumes have decreased without interruption since 1966. In the five-year period starting with fiscal year 1969 alone parcel post volume has decreased by over 165,000,000 parcels. Further, this decrease in volume has taken place during a period when overall mail volume has increased substantially. Thus, the decrease in volume for parcel post, measured on the basis of a percentage of the total mail volume of the Postal Service, is even more dramatic than the absolute drop in volume. Of paramount importance, the volume loss by the parcel post service has been concentrated in the high density business shipments which are the least expensive to handle. This is well demonstrated by reference to volume figures for the United Parcel Service. During the five year period of 1969 through 1973, United Parcel Service volume has increased from 493 million pieces to 783 million pieces. Since only a very small portion of United Parcel Service traffic consists of household-to-household parcels, it is evident that the Postal Service is finding that an increasingly large proportion of the total parcels handled by it consists of the least attractive type of parcels, purely from the viewpoint of the cost of carrying such parcels.

I also regret that I must report to you that increasing numbers of the members of the Association are also either switching business from the parcel post service to United Parcel Service or are seriously considering doing so. Parcel shipments by Association members are, as I have stated above, attractive traffic for the Postal Service since they consist of well wrapped parcels shipped in substantial volumes making such parcels less costly for the Postal Service to handle than are parcels prepared by individuals for shipment to other individuals. The members of the Association desire to continue to support the parcel post service, and if it is at all economically feasible to do so, will continue to maintain their business with the parcel post service. This is based upon a judgment that it is in their long-range interests to continue to maintain a healthy and viable parcel post service since the alternative is to be left to the mercies of businesses in the private sector who are not subject to effective rate regulation. Further, the members of the Association believe it to be in their best interest to maintain a strong and efficient Postal Service for all kinds of mail, and the Postal Service would be harmed generally if it becomes necessary to divert parcel traffic from the Postal Service.

I would like to emphasize at this point that members of the Parcel Post Association are principally concerned with rates. Some have expressed the opinion that the parcel post service is losing business because the private competition offers better service. I would like to emphatically state that the threat of diversion by members of the Parcel Post Association does not stem from dissatisfaction with service. On a general basis, the members of the Association are satisfied with the quality of parcel post service. Although we believe that the quality of service should and can be improved, we have been impressed with the efforts which the Postal Service is now undertaking to make such improvements. We believe that with the continued efforts of the Postal Service in cooperation with the mailers using that service, the quality problem of parcel service will be solved and it will be able to offer service as good as that found in the private sector. Nevertheless, there continues to be an acute problem with rates. Unless the rates for parcel post can be held in line, there will be a virtually complete loss of that portion of the attractive low-cost traffic which continues to be shipped via parcel post. That will result not only in a parcel post service which is staggeringly more costly, but also a service which, of necessity, will offer poorer, slower service than that which can be offered if the service is able to keep its rates in line thereby maintaining a reasonable density of parcel traffic.

The Parcel Post Association is an intervenor in the rate proceedings currently pending before the Postal Rate Commission. For that reason, I feel somewhat constrained in commenting upon all of the many issues which are being litigated before the Commission. Nevertheless, I think it important for this Committee to know of the rate proposals which are being supported before the Commission. The Postal Service has proposed an increase in parcel post rates of 6.3%. These rates are now in effect on a temporary basis. Two parties before the Commission are supporting dramatically higher parcel post rates. The first is United Parcel Service which takes the position that parcel post rates must be increased by "at least" 36%, or approximately 30% more than the rate increases proposed by the Postal Service. The Officer of the Commission who has been appointed by the Postal Rate Commission to "represent the interests of the general public" pursuant to the requirement found in section 3624(a) of the Postal Reorganization

Act, is supporting a rate increase for parcel post which is only slightly less than that which is being supported by United Parcel Service.

I think this Committee should know that the adoption of rate levels as high as those being supported by the Officer of the Commission and the United Parcel Service would prove disastrous to the continued existence of the parcel post service. At the current time the United Parcel Service enjoys a rate advantage, with respect to most of the parcel traffic. Even under this relatively small rate advantage, the diversions from the parcel post service to UPS have been very large, as demonstrated by the volume figures given above. I can state categorically that the loss of parcel post volume that would take place if rate increases even approaching the size of those being supported by the Officer of the Commission would be enormous. The parcel post service would be reduced to handling only the most expensive, hard to handle traffic with the inevitable result that the cost to the ordinary citizen of sending parcels would be increased dramatically.

I would now like to state that despite the problems which I have outlined above, the Parcel Post Association continues to support the concept of postal reform. Specifically, we continue to support the concept of an independent postal service as embodied in the Postal Reorganization Act. Although we know there has been disappointment that the Postal Service has not achieved all of the goals that some thought it could achieve as a result of independence, we do think that progress has been made and that progress will continue to be made under an independent postal service. Nevertheless, Postal Service costs have risen enormously during the period of its independence. Of particular significance is the fact that postal service labor costs have increased at a rate which exceeds wage increases in both the private sector and in other parts of the federal government. An interesting comparison is the wages and benefits per man year in the Postal Service compared with the wage and benefit figures for United Parcel Service employees. Appendix A to this statement shows that during the period of 1968 to 1973 the U. S. Postal Service wages and benefits increased 58.6%. During the same period, United Parcel Service wages and benefits increased 50.4%. It is also interesting to note that postal salaries and benefits per man year have nearly doubled from \$7,687 in fiscal year 1968 to \$14,950 in fiscal year 1975, an increase of 95%. Between the period of 1967 and 1973, postal employees' earnings have increased by 64.5% compared to a 46.4% increase in U. S. household median incomes. I hasten to add that I am not stating that Postal Service wage increases have been excessive or unnecessary, but such increases have resulted in greatly increased postal costs with a resultant impact upon users.

We think it important for the Congress to recognize that the Postal Service is first and foremost a public service. It has not and should not be designed to meet solely the needs of business users of the service. If it were, it is evident that it would be possible to design a service which could meet the needs of business shippers at a substantially smaller cost than is required to meet the overall needs of the American people. For example, the Postal Service carrier visits each home in America six times every week, thus assuring to all Americans that they will receive as promptly as is possible those pieces of mail which are of most importance to them. If, of course, a service were to be designed simply to meet the needs of business mailers, it would not be necessary for a six day week schedule to be maintained. As far as the needs of business parcel shippers the need could as easily be met if the carrier visited the various addresses in the country no more than three times a week. Obviously, that would represent enormous savings in costs for the business users of the mail service; but it would not represent an acceptable level of service for the people of America.

I will not attempt to review all of the characteristics of the Postal Service as it is now and as it properly should be maintained which result in significantly higher costs than would result if it were designed to meet only the needs of business mailers. I know that others have reviewed those issues before you in greater detail. It is the position of the Parcel Post Association, however, that the only way of continuing to maintain the kind of Postal Service which the American people have come to expect and which the American people deserve to have continued is the enactment of H.R. 15511.

I believe, however, that the bill should be modified to provide for a permanent authorization of approximately 20% of total Postal Service costs to be appropriated by the Congress. I do not think that it would be in the best interests of the Postal Service for it to be required to annually seek authorization from the Congress for a requested amount of authorization. The effective functioning of the Postal Service requires that it be able to plan its budget which would not be

possible if it had to seek both annual authorizations and appropriations. Such amounts should apply to the public service costs of the Postal Service without restriction. We believe that, as is the case in the current public service appropriation, no class of mail should be penalized by being forced to pay for public service costs which the Congress has determined should be paid for by Congressional appropriations.

In fact, I would propose that the Congressional appropriation be directed specifically toward the delivery function of the Postal Service. The fiscal year 1975 delivery costs of the Postal Service will be approximately \$2.5 billion. That amount represents approximately 20% of the estimated total costs of operating the Postal Service for the fiscal year 1975. The delivery function is and will remain one that cannot be automated and is also the function which would be most changed if in fact the Postal Service were operated strictly as a business operation. Therefore, an appropriation to cover those costs would be an appropriate means of insuring the continued existence of a healthy Postal Service adequate to serve the needs of all the people.

I would like to close with very brief remarks concerning the Postal Rate Commission. As I noted above, the Parcel Post Association is an intervenor in the rate proceedings which are currently underway before the Postal Rate Commission. For that reason, I do not think that I should engage in a detailed discussion of all of the points of view which are being supported by the Parcel Post Association before that Commission and of the various points of view being supported by other parties. I would, however, like to invite your attention to one issue of paramount importance—the rate making standards found in the Postal Reorganization Act.

Contemporaneously with the passage of the Postal Reorganization Act, the Postal Service adopted a new costing system which demonstrated that approximately 50% of all postal costs could be causally traced to the various types of mail. This new system was developed and adopted because of strong criticisms that the old cost ascertainment system did not provide a meaningful basis for setting rates. The Kappel Commission found:

A large segment of postal costs, however, does not result from handling a particular class of mail but is the cost of maintaining the postal system itself. The allocation of such institutional costs to specific postal products, despite painstaking attempts to achieve fairness, is not only arbitrary but uninformative. The Report of the President's Commission on Postal Organization, p. 30.

It was against this background that the Postal Reorganization Act was adopted by the Congress, and based upon the assurance of the Postal Service that approximately 50% of the postal costs could be causally attributed, the Act required that the rates for each class of mail should meet at least those costs caused by such class—those costs, direct or indirect, attributable to such class. We now find, however, that the Commission appears to be determined to adopt a costing methodology which would attribute a substantially greater portion of total postal costs. Costing methodologies are being supported by parties in the present proceeding which would attribute up to 90 plus percent of total postal costs. I believe that the adoption of such costing systems would distort the intent of Congress so severely that it would destroy the ability of the Postal Service to maintain an optimal rate structure for the benefit of all classes of mail.

Therefore, I recommend that the Postal Reorganization Act be amended to make it impossible for the Commission to ignore the intent of Congress in fulfilling its rate setting responsibilities. I also believe that the effective functioning of the Commission would be enhanced by requiring Senate confirmation of Commission appointments, as is provided by the pending bill. Finally, Congress should continue to exercise its oversight responsibilities over the Postal Service.

In summary, current trends threaten the continued existence of a reasonably-priced parcel post service adequate to meet the needs of the American people. The threat is immediate and unless action is taken promptly we will find ourselves with a skeleton parcel post service offering bad service at sky-high rates. The ordinary citizen, who has no real alternative, will be stuck with that service, and the small parcel businesses such as those who are members of the Parcel Post Association will be the captive of monopolistic United Parcel Service.

We believe that the Postal Service not only recognizes its responsibility to provide good parcel delivery service to the American people, but under the leadership of Postmaster General Klassen is working to modernize the Postal Service to bring about this desired end.

APPENDIX A

SALARIES/WAGES AND BENEFITS PER MAN-YEAR: USPS COMPARED TO UPS

	1968	1969	1970	1971	1972	1973	1974 (esti- mate)	1975 (esti- mate)
1. U.S. Postal Service:								
Salaries and benefits per man-year.	\$7,687	\$8,265	\$8,988	\$10,320	\$11,421	\$12,194	\$13,704	\$14,950
1968 equals 100.....	100	107.5	116.9	134.3	148.6	158.6	178.3	194.5
2. United Parcel Service:								
Wages and employee benefits per man-year.....	\$7,936	\$8,515	\$9,322	\$9,869	\$11,161	\$11,938		
1968 equals 100.....	100	107.3	117.5	124.4	140.6	150.4		

Sources: (1) Exhibit B (USPS salaries and benefits per man-year). Fiscal years. (2) USPS library (excluding profit sharing and stock options). Calendar years.

CENTRE DAILY TIMES,

State College and Bellefonte, Pa., December 9, 1974.

To the Members of House Postal Service Committee,
Washington, D.C.

GENTLEMEN: My name is John A. Brutzman. I am associate editor of The Centre Daily Times, an afternoon paper published in State College, Pennsylvania.

Our problems with the mail service extend over a number of years and coincide almost exactly with the change in management from the U.S. Post Office Department to the U.S. Postal Service.

It is common for air mail special delivery letters to take as much as four days to travel from New York City and Washington, D.C. First class surface mail is correspondingly slow. The fault does not lie in the State College office, as we maintain a box there and collect the mail at least twice daily, contingent on the time that mail arrives and is sorted in the State College office.

It is our observation that the deliberate policy of attrition inaugurated by your Mr. Klassen has contributed to the inefficiency of the Postal Service. Experienced supervisors were forced into "early retirement" by a variety of methods and were not replaced. This cutback in personnel came at a time when the volume of mail was increasing.

Coupled with this cutback was an order not to pay overtime, whether or not the mail moved on schedule. I have seen stacks of mail in the State College office that was not sorted on the day of arrival because the available manpower could not complete it in the ordinary work day and overtime was not permitted.

This has contributed to a decline in morale among the Civil Service employees, who are embarrassed by this forced decline in service, along with the uncertainty of future employment.

Postal employees say that the New York and Chicago terminals are primary sources of delay. I do not propose any solution for this problem, but I suggest strongly that your staff members look into this.

I presume that you have available all the facts Jack Anderson has gathered on the operation of the Postal Service, including the high-paid, top officials whose salaries have wiped out any savings generated by the early retirement policies at the lower levels.

I thank you for this opportunity to submit written testimony to your committee.

Yours truly,

JOHN A. BRUTZMAN.

[The following response to four questions submitted to Direct Mail-Marketing Association, Inc. were received by the subcommittee for the record:]

Question 1. Do you feel that the Postal Rate Commission should be removed from the requirement that they conduct hearings under the hearing process outlined in the Administrative Procedures Act and be allowed to conduct more simplified proceedings similar to a legislative hearing?

Answer. No, not at this time. The Postal Service is the principal repository of data relevant to ratemaking and, absent the procedures presently contemplated

by the Act, it might be in a position to disclose only information which serves the particular position taken by the Service at a given time. It may be that in the long run, procedures can be developed by the Commission which will have the effect of requiring Postal Service disclosure of relevant information without resorting to the adversary-type hearing now contemplated.

Question 2. Will you expand on your recommendation that the ceiling on temporary rates also apply to phase rates?

Answer. Existing law, as interpreted by the Court of Appeals, requires phasing of permanent rates for certain classes of mail if appropriations have been forthcoming, but not for temporary rates. This is a very anomalous result since the purpose of the phasing provisions was to minimize the impact of large rate increases. From the point of view of the users, it is the magnitude of the increase—not whether it is “temporary” or “permanent” in the legal contemplation—which matters. Despite the Court of Appeals’ view, I do not believe Congress intended to permit the dephasing of temporary rates unless there has been a failure of phasing appropriations. The amendment suggested at page 5 of my testimony is designed to make clear this original intent.

Question 3. If the Private Express Statutes were amended to allow private carriage of all mail advertising sent in bulk, do you have any idea of how much mail might be diverted from the Postal Service?

Answer. It is virtually impossible with any degree of certainty to predict how much mail would be diverted from USPS if the Private Express Statutes were amended to allow private carriage of all mail advertising sent in bulk. Our guess is that no significant volume of bulk mail would in actual practice be diverted from USPS to private carriers so long as (a) third class postal rates stay below 10¢ and (b) as long as private carriers must deliver the mail to something other than mail boxes. Since we feel relatively little mail would be diverted under present conditions, we feel releasing 3rd class bulk from the monopoly would actually help USPS by providing it with limited direct competition in an area similar to its main product line. If USPS had to compete for advertising mail, the cost saving techniques it would have to develop would be bound to have a tangible benefit on operation of its major business of delivering letter mail.

Question 4. H.R. 15511 also contains several provisions which would tend to increase the independence of the Postal Rate Commission. Do you favor these provisions, particularly the one which would make Commission decisions final?

Answer. Yes, we favor the provisions in H.R. 15511 which would tend to make the decisions of the Postal Rate Commission final although as a practical matter they appear to be so now.

[A copy of H.R. 15511 and a report received from the Administrative Conference of the United States, along with additional supplementary material, follows:]

93^d CONGRESS
2^d Session**H. R. 15511**

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 1974

Mr. HANLEY introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and Postal Rate Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 ANNUAL AUTHORIZATION FOR PUBLIC SERVICE SUBSIDY

4 SECTION 1. Section 2401 (b) of title 39, United States
5 Code, is amended to read as follows:

6 “(b) (1) As reimbursement to the Postal Service for
7 public service costs incurred by it pursuant to section 101
8 of this title, there is authorized to be appropriated to the
9 Postal Service each fiscal year an amount not more than

1 20 per centum of the total operating expenses of the Service
2 for the immediately preceding fiscal year. However, no ap-
3 propriation shall be made to the Postal Service under this
4 subsection unless authorized annually by legislation hereafter
5 enacted by Congress.

6 “(2) Appropriations made under the authority of this
7 subsection shall not be expended or utilized in such a manner
8 as to effect a reduction in postal rates and fees for zone-
9 rated parcel post rates and catalogs of sixteen ounces or over
10 as required to be established under sections 3621 and 3622
11 of this title.

12 “(3) The Postal Service, in requesting an amount to
13 be appropriated under this subsection, shall present to the
14 appropriate committees of the Congress a comprehensive
15 statement of its compliance with the public service cost
16 policy established under section 101 (b) of this title.”.

17 SEPARATE ANNUAL BUDGET OF POSTAL RATE COMMISSION

18 SEC. 2. Section 3604 (c) of title 39, United States Code
19 is amended to read as follows:

20 “(c) The Commission annually shall prepare and submit
21 to the President a separate budget of the Commission’s ex-
22 penses, including, but not limited to, expenses for facilities,
23 supplies, compensation, and employee benefits. The President
24 shall include the budget of the Commission, with his recom-
25 mendations but without revision, as a separate item in the

1 budget required by section 11 of title 31 to be transmitted to
2 Congress.”.

3 RATE, FEE, AND CLASSIFICATION DECISIONS OF POSTAL
4 RATE COMMISSION WITHOUT APPROVAL, ALLOWANCE
5 UNDER PROTEST, MODIFICATION, OR REJECTION BY THE
6 BOARD OF GOVERNORS OF THE POSTAL SERVICE

7 SEC. 3. (a) Section 3624 of title 39, United States Code,
8 is amended by adding at the end thereof the following:

9 “(d) The Commission shall determine the date or dates
10 on which the new rates, fees, mail classification schedule, and
11 changes in the schedule shall become effective. The decisions
12 of the Commission shall not be subject to approval, allowance
13 under protest, modification, or rejection by the Governors.”.

14 (b) (1) Section 3625 of title 39, United States Code,
15 is repealed.

16 (2) The item relating to section 3625 in the table of
17 sections of subchapter II of chapter 36 of title 39, United
18 States Code, is repealed.

19 (c) Section 3628 of title 39, United States Code, is
20 amended—

21 (1) by deleting “Governors to approve, allow un-
22 der protest, or modify the recommended decision of the”;

23 (2) by deleting “and the Governors”; and

24 (3) by deleting “or Governors”.

25 (d) Section 3622 of title 39, United States Code, is

1 amended by deleting the word "recommended" in each
2 instance.

3 (e) Section 3623 of title 39, United States Code, is
4 amended by deleting the word "recommended" in each
5 instance.

6 TEMPORARY CHANGES IN RATES AND CLASSES

7 SEC. 4. Section 3641 of title 39, United States Code, is
8 amended to read as follows:

9 **"§ 3641. Temporary changes in rates and classes**

10 " (a) If the Postal Rate Commission does not transmit
11 its decision to the Board of Governors within one hundred
12 and eighty days after the Postal Service has submitted to the
13 Commission a request for a decision on a change in rates of
14 postage or in fees for postal services, or on a change in the
15 mail classification schedule (after such schedule is estab-
16 lished under section 3623 of this title), the Postal Service,
17 upon ten days notice in the Federal Register, may place into
18 effect temporary changes in rates of postage, in fees for
19 postal service, or in the mail classification schedule it con-
20 siders appropriate to carry out the provisions of this title.
21 Any temporary change shall be effective for a period ending
22 not later than thirty days after the Commission has trans-
23 mitted its decision to the Governors.

24 " (b) If, under section 3628 of this title, a court orders
25 a matter returned to the Commission for further considera-

1 tion, the Postal Service, with the consent of the Commis-
2 sion, may place into effect temporary changes in rates of
3 postage, in fees for postal service, or in the mail classification
4 schedule.

5 “(c) A rate of postage for a class of mail or a fee for
6 a postal service under a temporary change under this sec-
7 tion may not exceed the lesser of (1) the rate or fee
8 requested for such class or service, or (2) a rate or fee which
9 is more than 10 per centum greater than the permanent
10 rate or fee in effect for that class or service at the time a
11 permanent change in the rate or fee of such class or service
12 is requested under section 3622 of this title.”.

13 CHANGES IN ORGANIZATIONAL STRUCTURE OF POSTAL

14 RATE COMMISSION

15 SEC. 5. Section 3601 of title 39, United States Code,
16 is amended to read as follows:

17 “§ 3601. **Establishment**

18 “(a) The Postal Rate Commission is an independent
19 establishment of the executive branch of the Government
20 of the United States. The Commission is composed of five
21 Commissioners, appointed by the President, by and with the
22 advice and consent of the Senate. Not more than three of
23 the Commissioners may be adherents of the same political
24 party.

1 “(b) The President shall designate one of the Com-
 2 missioners as Chairman of the Commission. At the beginning
 3 of each calendar year, the members of the Commission
 4 shall by majority vote designate a Vice Chairman of the
 5 Commission who shall serve as Vice Chairman during such
 6 year. The Vice Chairman shall act as Chairman of the Com-
 7 mission in the absence of the Chairman. The Chairman
 8 shall serve at the pleasure of the President.

9 “(c) The Commissioners shall be chosen on the basis
 10 of their professional qualifications and may be removed only
 11 in accordance with section 7521 of title 5.”.

12 APPLICATION TO UNITED STATES POSTAL SERVICE OF
 13 ADMINISTRATIVE PROCEDURE PROVISIONS OF TITLE 5

14 SEC. 6. (a) Section 410 (a) of title 39, United States
 15 Code, is amended by deleting “, including the provisions of
 16 chapters 5 and 7 of title 5,”.

17 (b) Section 410 (b) of title 39, United States Code,
 18 is amended—

19 (1) by deleting the period at the end of subpara-
 20 graph (6) and inserting in place of the period a semi-
 21 colon and the word “and”; and

22 (2) by adding immediately below subparagraph
 23 (6) the following subparagraph:

24 “(7) chapter 5 (administrative procedure) and
 25 chapter 7 (judicial review) of title 5.”.

1 REVISION OF LAWS RELATING TO PRIVATE CARRIAGE OF
2 LETTERS

3 SEC. 7. (a) Chapter 6 of title 39, United States Code,
4 is amended by adding at the end thereof the following:

5 "§ 607. Definition of 'letter'

6 "(a) As used in this chapter and in sections 1693
7 through 1699 of title 18, 'letter' means any message in writ-
8 ing sent to a single specific addressee, carbons or other
9 limited copies of the above to single additional specific
10 addressees, except:

11 "(1) telegrams;

12 "(2) newspapers, periodicals, books, catalogs,
13 microfilms, magnetic tapes, and other material repro-
14 duced in quantity such as:

15 "(A) checks, stock certificates, promissory
16 notes, bonds, and securities when shipped to or
17 from financial institutions;

18 "(B) letters being sent in bulk for storage or
19 destruction; and

20 "(C) letters being sent in bulk from a printer
21 or other supplier to his customer; and

22 "(3) written or printed matter enclosed with
23 cargo, including but not limited to invoices, circulars,
24 advertising, labels, instructions, and messages printed
25 on the merchandise or container:

1 “(b) As used in subsection (a) of this section, ‘writing’
2 includes handwriting, typewriting, printing on paper or film,
3 the punching of holes, magnetic symbols on tape, and any
4 other process by which characters or symbols having a pre-
5 determined significance are physically represented in a form
6 readable by human beings or machines.

7 “(c) As used in subsection (a) (2) (A) of this sec-
8 tion, ‘checks’ include documents intrinsically related to and
9 regularly accompanying the movement of checks within the
10 banking system, return items (whether or not bearing nota-
11 tions), and instruments that call for the crediting or debit-
12 ing of accounts maintained at financial institutions that
13 must be acted upon promptly by reason of the rules under
14 which the financial institutions operate or the nature of the
15 transaction.

16 “(d) As used in subsections (a) (2) (A) and (c) of
17 this section, ‘financial institutions’ include—

18 “(1) as to checks, banks, their offices, affiliates and
19 facilities; and

20 “(2) as to other financial instruments, institutions
21 performing functions involving the bulk generation,
22 clearance, and transfer of such instruments.

23 “(e) Any change at any time in regulations of the
24 Postal Service governing administration of this chapter by
25 reason of the enactment of this section shall not become ef-

1 fective until after the opportunity for a hearing is accorded
 2 interested parties under the administrative procedure provi-
 3 sions of section 556 and 557 of title 5.”

4 (b) The table of sections at the beginning of chapter 6
 5 of title 39, United States Code, is amended by inserting, im-
 6 mediately below the item relating to section 606, the follow-
 7 ing new item:

“607. Definition of ‘letters’.”

8 ELIGIBILITY OF UNITED STATES POSTAL SERVICE EMPLOY-
 9 EES FOR PROMOTION OR TRANSFER TO OTHER EXECU-
 10 TIVE BRANCH POSITIONS AND CHANGES IN OTHER
 11 PROVISIONS OF TITLES 39 AND 5

12 SEC. 8. (a) Section 1006 of title 39, United States Code,
 13 is amended to read as follows:

14 **“§ 1006. Right of transfer**

15 “Each officer or employee in the postal career service
 16 of the Postal Service shall be eligible for promotion or
 17 transfer to—

18 “(1) any other position in the Postal Service for
 19 which he is qualified; or

20 “(2) any other position in the executive branch of
 21 the Government of the United States for which he is
 22 qualified, upon completion of at least one year of con-
 23 tinuous employment in the postal career service im-
 24 mediately before such promotion or transfer and subject

1 to such regulations governing such promotion or transfer
2 as the United States Civil Service Commission shall
3 prescribe.

4 The authority provided by this section shall be used to pro-
5 vide a maximum degree of career promotion opportunities
6 for officers and employees and to insure continued improve-
7 ment of postal services.”.

8 (b) Section 409 (d) of title 39, United States Code, is
9 amended by striking out the words “with the prior consent
10 of the Attorney General”.

11 (c) Title 39, United States Code, is amended as follows: .

12 (1) In section 404 (6) strike out “special non-
13 postal or” and insert “special, nonpostal, or” in place
14 thereof;

15 (2) At the end of chapter 4 add the following new
16 section:

17 “§ 413. Return receipts received in the courts

18 “A return receipt provided by the Postal Service to
19 a sender of mail showing to whom and when an article was
20 delivered, or to whom, when, and the address where an
21 article was delivered, shall be received in the courts as
22 prima facie evidence of the delivery.”;

23 (3) In the analysis of chapter 4 add the follow-
24 ing item at the end thereof:

“413. Return receipts received in the courts.”;

1 (4) In section 2401 (e) strike out "arc" and in-
2 sert "is" in place thereof;

3 (5) In section 3202 (a) (1) (C) strike out "the
4 Pan American Union" and insert "the General Secre-
5 tariat of the Organization of American States" in place
6 thereof;

7 (6) In section 3204 (a) (2) strike out "mailings"
8 and insert "mailing" in place thereof;

9 (7) In clause (2) of section 3626 strike out "the
10 rates for mail under sections" and insert "the rates
11 for mail under former sections" in place thereof;

12 (8) In the last sentence of section 3626 strike out
13 "under this subsection" and insert "under this section"
14 in place thereof;

15 (9) In section 3682 (b) strike out "maximum size
16 on mail" and insert "maximum size of mail" in
17 place thereof;

18 (10) In the first sentence of section 5212 strike
19 out the comma after the words "without advertising" and
20 insert a comma immediately after the words "for bids".

21 (d) Title 5, United States Code, is amended as follows:

22 (1) In section 302 (b) (2) strike out "324" and
23 insert "3702" in place thereof;

24 (2) In section 2902 (b) strike out "the Postmaster
25 General,";

1 (3) In section 3351 strike out “, except an ap-
2 pointment made under section 3311 of title 39”;

3 (4) In section 3363 strike out “, except an appoint-
4 ment made under section 3311 of title 39”;

5 (5) Strike out section 3364;

6 (6) In the analysis of chapter 33 strike out item
7 3364;

8 (7) In section 3501 (b) strike out “, except an
9 employee whose appointment is made under section 3311
10 of title 39”;

11 (8) In section 3581 (5) (A) strike out “3582 (a)”
12 and insert “3582 (b)” in place thereof;

13 (9) In the last sentence of section 3582 (b) strike
14 out “on or after the date of enactment of the Foreign
15 Assistance Act of 1969” and insert “after December 29,
16 1969” in place thereof;

17 (10) In section 4102 (a) (2) (B) strike out “(ex-
18 cept a Postmaster)”;

19 (11) In section 5102 (c) (5) strike out “White
20 House Police” and insert “Executive Protective Serv-
21 ice” in place thereof;

22 (12) In section 5102 (c) (9) strike out “40” and
23 insert “305” in place thereof;

24 (13) In section 5303 (c) strike out “and section
25 3552 of title 39”;

1 (14) In section 5533 (d) (7) strike out subpara-
2 graph (F) and redesignate subparagraphs (G) and
3 (H) as (F) and (G), respectively;

4 (15) In section 5541 (2) (iv) strike out "White
5 House Police" and insert "Executive Protective Service"
6 in place thereof;

7 (16) In the catchline of section 5545 strike out
8 "SUNDAY,";

9 (17) In the analysis of chapter 55 strike out
10 "Sunday," in item 5545;

11 (18) In section 6101 (a) (4) strike out "educa-
12 tion" and insert "educational" in place thereof;

13 (19) Strike out section 6309;

14 (20) In the analysis of chapter 63 strike out item
15 6309;

16 (21) In section 6324 (a) strike out "White House
17 Police" and insert "Executive Protective Service" in
18 place thereof;

19 (22) In section 6324 (b) (3) strike out "White
20 House Police" and insert "Executive Protective Serv-
21 ice" in place thereof;

22 (23) In section 7511 (1) strike out ", except an
23 employce whose appointment is made under section
24 3311 of title 39";

1 (24) In section 8332 (b) (1) strike out “substitute
2 in the postal field service” and insert “part-time flexible
3 in the United States Postal Service” in place thereof;

4 (25) In section 8332 (b) (8) strike out “on or
5 after February 19, 1929, and prior to the effective date
6 of section 442 of the Legislative Reorganization Act of
7 1970” and insert “after February 18, 1929, and before
8 noon on January 3, 1971” in place thereof;

9 (26) In section 8332 (b) (9) strike out “8339
10 (h)” and insert “8339 (i)” in place thereof;

11 (27) In section 8333 (c) —

12 (A) strike out “of title 5” and insert “of this
13 title” in place thereof;

14 (B) strike out “of this chapter” and insert
15 “of this title” in place thereof;

16 (28) In section 8340 (c) (2) strike out “on or
17 after the first day of the first month that begins on or
18 after the date of enactment of the Civil Service Retirement
19 Amendments of 1969” and insert “after October
20 31, 1969” in place thereof;

21 (29) In section 8341 (c) strike out “8339 (k)”
22 and insert “8339 (k) (1)” in place thereof.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

2120 L STREET, N.W., SUITE 500
WASHINGTON, D.C. 20037

November 11, 1974

OFFICE OF
THE CHAIRMAN

Honorable Thaddeus J. Dulski
Chairman
U.S. House of Representatives
Committee on Post Office and Civil Service
207 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter of September 16, requesting our comments on H.R. 15511, a bill to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and Postal Rate Commission, and for other purposes. We will confine our comments to sections 6 and 7 of the bill, which deal with the application of the provisions of the Administrative Procedure Act, 5 U.S.C. §§551-559, 701-706, to certain functions of the Postal Service.

Section 6 of the bill would amend section 410 of title 39, United States Code, to make chapters 5 and 7 of title 5, United States Code, applicable to the Postal Service. Chapters 5 and 7 contain the provisions of the Administrative Procedure Act. 1/ Section 410 at present exempts the Postal Service from the Administrative Procedure Act except in two respects. First, the Freedom of Information Act, 5 U.S.C. §552, is made applicable to the Postal Service by section 410(b)(1), subject to certain qualifications set forth in section 410(c). 2/ Second, section 3001(f) of title 39 provides that, except as otherwise provided by law, proceedings concerning the mailability of matter shall be conducted in accordance with the Administrative Procedure Act.

The Administrative Procedure Act was enacted in 1946, after long study by Congress, as a general code of procedure for Federal agencies. By and large, it has served well and has promoted a considerable degree of uniformity in administrative practice. The basic principle of a uniform administrative practice, with only such variations as operational differences justify, serves a number of important values. It is necessary to the retention of an administrative system that can be understood by the general public and penetrated by lawyers who are not specialists in narrow fields of Federal practice. It is helpful to the courts in their review of agency action, by facilitating the development of broadly applicable principles

1/ Chapter 5 contains also certain general provisions, §§500-503, and the Administrative Conference Act, §§571-576, but their application to the Postal Service is not, we assume, a source of controversy.

2/ We express no opinion as to whether the material excluded from the requirement of disclosure by section 410(c) would otherwise be required to be made available under the Freedom of Information Act.

of judicial review. Finally, and perhaps most important, allegiance to a standard body of procedural principles such as that contained in the APA has great advantages in the legislative process, for it enables Congress to concentrate its attention on the substantive aspects of the legislation before it with the knowledge that the agency's procedures in administering that legislation will be governed by a familiar body of law. Therefore I approach section 6 of the bill from the premise that the Administrative Procedure Act should apply to the Postal Service, with only such exceptions and qualifications as the particular and demonstrated needs of that agency may require.

We are not sufficiently familiar with the operations of the Postal Service to judge whether and to what extent there is such a need for special treatment. Nor are we able to particularize the practical effects of applying the APA generally to the operations of the Service. One result would be to make applicable to the Service the requirements of 5 U.S.C. §553 for notice to the public and opportunity for comment on proposed agency rules. We note that the Service at present complies with section 553, even though not required to do so. See, e.g., 39 F.R. 19958, 33209. Another result of enacting section 6 would be to apply to the Service's functions generally the body of decisional law which has developed under the Administrative Procedure Act with regard to procedural requirements and, especially, to the availability and scope of judicial review. At present the inapplicability of the APA to the Service creates a potential vacuum in any area not specifically dealt with in the provisions of title 39. As I indicated above, the availability of this body of law to resolve problems which may not have been foreseen by the drafters of the agency's own statute is one of the principal advantages of applying the APA to an agency's functions.

Section 7 of the bill would amend chapter 6 of title 39, United States Code, governing private carriage of letters, to add a new section 607. We have no comment on subsections (a) - (d) of section 607, which define the term "letter" for purposes of the private carriage provisions. Section 607(e) provides:

"(e) Any change at any time in regulations of the Postal Service governing administration of this chapter by reason of the enactment of this section shall not become effective until after the opportunity for a hearing is accorded interested parties under the administrative procedure provisions of section 556 and 557 of title 5."

We believe that enactment of section 607(e) would be unwise.

Agency rule making is ordinarily governed by section 553 of the Administrative Procedure Act, which, as I have stated, requires that an agency, before adopting a rule, 3/ publish a notice of proposed rule-making and offer an opportunity for the submission of written comments, with or without opportunity for an oral presentation of views before the agency. This procedure, so-called notice-and-comment rule making, has proven simple, flexible and efficient. Section 607(e), however, would require the Postal Service to follow the procedures prescribed by sections 556 and 557 of the Administrative Procedure Act. These procedures are applicable where the agency action, whether rule making or adjudication, is required to be made "on the record after opportunity for an agency hearing," 5 U.S.C. §553(c), §554(a). The procedures of sections 556 and 557 contemplate a trial before an administrative law judge, with the ordinary incidents of a trial, presentation of oral and written testimony under oath, opportunity for cross-examination, a transcript of the evidence, etc.

In its Recommendation 72-5, a copy of which I enclose, the Administrative Conference addressed a problem we perceive in the tendency of Congress to prescribe procedures for the making of rules of general applicability more elaborate than the notice-and-comment procedures of APA §553. The recommendation states that statutory requirements going beyond those of section 553 should not be imposed in the absence of special circumstances and, in particular, that trial-type procedures should never be required for rule making except to resolve issues of specific fact.

Recommendation 72-5 warns against requiring trial-type procedures for making rules of general applicability because formal and intensive scrutiny of particular facts is seldom suited to the resolution of the broad issues on which the formulation of such rules ordinarily depends. It is generally recognized that "the method of trial is designed for resolving issues of fact, and that the method of argument, not the method of trial, is normally the appropriate oral process for resolving non-factual issues of law and policy and discretion." Davis, Administrative Law Text §7.02 (1972). Of equal significance, however, is the further distinction between what have been called "adjudicative" facts (that is, facts about particular parties, their activities, and their properties) and "legislative" facts (that is, facts which do not concern

3/ There are certain exemptions from this requirement, see §553(a) and §553(b)(A), (B).

or are not limited to the immediate parties but are of general scope, such as facts about conditions in an industry, which an agency must know in order to decide wisely a question of law, policy or discretion). Generally speaking, it is only issues of adjudicative fact which a trial is required to resolve; for legislative facts a trial is not usually necessary, though it may occasionally be helpful. Davis, Administrative Law Text §7.03, 7.05 (1972). The reason is well explained in the case of WBEN, Inc., v. United States, 396 F.2d 601 (2d Cir. 1968), cert. denied, 89 S. Ct. 238 (1968), involving the adoption of a rule by the Federal Communications Commission revising the respective broadcasting rights of daytime and fulltime radio stations. The court rejected the contention that the FCC should have held a separate evidentiary hearing with respect to each broadcaster who claimed that his existing license would be modified by the new rule. It said (396 F.2d at 618):

"Adjudicatory hearings serve an important function when the agency bases its decision on the peculiar situation of individual parties who know more about this than anyone else. But when, as here, a new policy is based upon the general characteristics of an industry, rational decision is not furthered by requiring the agency to lose itself in an excursion into detail that too often obscures fundamental issues rather than clarifies them."

There may be added to this the fact that trial-type procedures are an enormously expensive means of obtaining information — expensive in terms of time and of money for the agency, the public, and all individuals concerned. For this reason alone they should be avoided when they have no distinctive and valuable contribution to make.

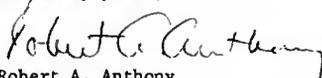
Conference Recommendation 72-5 is addressed exclusively to agency rule making of general applicability. In such a proceeding, almost by definition, adjudicative facts are not at issue, and the agency should ordinarily be free to, and ordinarily would, proceed by the route of written comments, supplemented, perhaps, by a legislative-type hearing. Yet there may arise occasionally in such rule making proceedings factual issues which, though not adjudicative, nevertheless justify exploration in a trial-type format — because they are sufficiently narrow in focus and sufficiently material to the outcome of the proceeding to make it reasonable and useful for the agency to resort to trial-type procedure to resolve them. These are what the Recommendation refers to as issues of specific fact.

The regulations recently promulgated by the Postal Service under the Private Express Statutes, 39 F.R. 33209, are general in scope, and one may assume that changes in these regulations will be of similarly general application. In requiring the Postal Service to hold a trial-type hearing on any such proposed change at the instance of any interested party, section 607(e) would mandate that very "excursion into detail" against which the court warned in the WBEN case.

Of course, in a particular Postal Service rule making proceeding an issue of "specific fact" might arise -- and if it could be identified in advance, it might be desirable for Congress to require trial-type procedures for its resolution. But such prior identification of the appropriate issues is seldom possible, since their identity hinges so much upon the nature of the particular rule under consideration and the contested points that arise in the particular proceeding. Ordinarily, the agency must be accorded discretion to apply trial-type procedures in the appropriate instances that appear as a rule making unfolds. This is the course urged upon the agencies by Conference Recommendation 72-5; it might also be urged by the present legislation. But imposing trial-type procedures indiscriminately upon all issues may prove tantamount to eliminating the rule making authority entirely.

I believe that there is no single current issue of administrative procedure on which the experts -- in private practice, in the agencies and in the law schools -- are more in accord than the proposition set forth above: that trial-type procedures should not be applied across-the-board to the making of rules of general applicability. Accordingly, I urge that section 607(e) be deleted from the bill.

Sincerely yours,



Robert A. Anthony
Chairman

cc: Mr. Louis A. Cox
General Counsel
Postal Service

Enclosure

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
NEW EXECUTIVE OFFICE BUILDING
WASHINGTON, D.C. 20506

OFFICE OF
THE CHAIRMAN

RECOMMENDATION 72-5: Procedures for Adoption
of Rules of General Applicability

Adopted December 14, 1972

The Administrative Procedure Act, 5 U.S.C. § 553 (1970), provides simple, flexible and efficient procedure for rulemaking, including publication of a notice of proposed rulemaking in the Federal Register, opportunity for submission of written comments, and opportunity in the discretion of the agency for oral presentation. This notice-and-comment rulemaking procedure is extensively used and on the whole has worked well. Each agency is of course free to provide additional procedural protection to private parties in any proceeding.

There are statutes that require procedures in addition to those required by § 553. Some require opportunity for oral argument, some require agency consultation with advisory committees, and some require trial-type procedure.

The Administrative Conference believes that statutory requirements going beyond those of § 553 should not be imposed in absence of special reasons for doing so, because the propriety of additional procedures is usually best determined by the agency in the light of the needs of particular rulemaking proceedings. The Administrative Conference emphatically believes that trial-type procedures should never be required for rulemaking except to resolve issues of specific fact.

Recommendation

1. This recommendation applies only to rules of general applicability and not to rules of particular applicability, only to substantive rules and not to procedural rules, only to legislative rules and not to interpretative rules, and only to rulemaking governed by § 553 and not to rulemaking excepted from the requirements of § 553.

2. In future grants of rulemaking authority to administrative agencies, Congress ordinarily should not impose mandatory procedural requirements other than those required by 5 U.S.C. § 553, except that when it has special reason to do so, it may appropriately require opportunity for oral argument, agency consultation with an advisory committee, or trial-type hearings on issues of specific fact.

3. Congress should never require trial-type procedures for resolving questions of policy or of broad or general fact. Ordinarily it should not require such procedures for making rules of general applicability, except that it may sometimes appropriately require such procedures for resolving issues of specific fact. Existing statutes imposing a requirement of trial-type procedures for rulemaking of general applicability should be reexamined in light of these principles.

4. A study of proceedings conducted by the Food and Drug Administration pursuant to § 701(e) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 371(e) (1970), has demonstrated that that section should be amended so as to make clear that trial-type hearings are not required except on issues of specific fact.

5. Each agency should decide in the light of the circumstances of particular proceedings whether or not to provide procedural protections going beyond those of § 553, such as opportunity for oral argument, agency consultation with an advisory committee, opportunity for parties to comment on each other's written or oral submissions, a public-meeting type of hearing, or trial-type hearing for issues of specific fact.



M. A. Kramer, President
 C. R. Ward, Vice President
 Harry J. Cooper, Executive Vice President

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December 16, 1974

Honorable James M. Hanley,
 Chairman, Subcommittee on Postal Service
 House Post Office & Civil Service Committee
 House of Representatives
 Washington, D.C. 20515

Dear Congressman Hanley:

I was pleased to meet you, and have the opportunity to discuss some of our observations of the changes that have taken place in the U.S. Postal Service. At your suggestion, I am pleased to put this in the record.

The National Association of Greeting Card Publishers, is a Division of the Federation of National Associations, and is vitally interested in the Postal Service, and the cost of First-Class Mail. In that concept, I have made it my business to know every Postmaster General for the last 20 years, and have been an observer of the progress, or lack of such, that has taken place.

As you, no doubt, have gathered from our conversation, we are more than pleased with the new spirit and fresh outlook that has emerged in the past 2 years, and we see this as a beginning of the fulfillment of what Congress wanted, when they reorganized the service. One of the most striking examples, was the fast and effective manner the United States Postal Service took over, during the United Parcel strike in Southern California, which began November 9, and lasted for 3 weeks. As United Parcel Service is responsible for delivery of about 65% of the packages in this area, a stoppage, or even a slowdown in the busiest season of the year, would have been disastrous - not only to the Greeting Card Industry, but also to the wholesale and retail businesses in this area - which at best is having a sluggish year.

I could see no deterioration of the service when the U.S. Postal Service took over, and was gratified by the enthusiasm and cooperation by all. I am sure it took an all-out effort to accomplish this, and we, at the National Association of Greeting Card Publishers, are grateful to the Postal Service for their cooperation.

It is a pleasure to be able to say nice things about a much maligned service.

Wishing you, and yours, a Very Merry Christmas and a Happy New Year!

Very truly yours,

M.A. Kramer,
 President

Arizona Republic Lobbies To Destroy Effectiveness Of Direct Mail

HENRY HOKE, JR.

Publisher, DIRECT MARKETING

224 Seventh Street, Garden City, N.Y. 11530 • 516-746-6700

Many newspapers don't like direct mail. They think it takes advertising away from them. Anyone who knows the economics of promoting a business knows that direct mail does not take dollars away from newspapers. There are times when newspaper advertising makes sense. There are times when direct mail makes sense. Same is true for all advertising media. But direct mail is common to most businesses, for it is the one vehicle the advertiser can use to make sure his customers and prospects only receive his advertising message.

Newspaper writers generally have a false sense of loyalty to their readers concerning this subject. They scream "junk" in their headlines. They lobby in the guise of news to coerce the State, for example, to withdraw the use of automobile registrations as a source of information for certain, logical kinds of legitimate businesses, including newspapers.

Have you ever asked how newspaper circulation managers learn the names of new families moving into a city? The auto registration lists can be one way. Village records is another. Some papers subscribe to a mailing list compiling service which weekly provides the names of new move-ins. These names are organized for the newspaper's own subscription-seeking direct mail, or a phone call, or given to the newsboy for a personal call. Most people would call this intelligent business practice. These same sources provide new names to a wide variety of local businesses who wish to welcome newcomers. Kind of neighborly.

Yet, the editors of many newspapers permit, if not urge, their writers to lobby, in an effort to deny the same right to their local department stores (often their own advertisers), other businesses, and particularly national mail order companies. Newspapers, these days, are

generally supporting legislation at both State and National levels, to inhibit the flow of direct mail advertising.

Newspapers generally support higher rates for advertising mail in editorial columns and lobby in Washington for low, low, subsidy rates for themselves and other publishers. Why? By helping to force direct mail postage rates higher, they make advertising in newspapers look more attractive dollar-wise.

Newspapers generally support, if we read their columns right, the idea that no business can send a piece of mail to a home unless the businessman has prior permission from the consumer.

Newspapers publicly abhor the so-called rental of mailing lists, though only a small part of all direct mail activity. So-called mail order lists, names of people who are proven-by-purchase buyers of things, are extremely valuable to the retail community. Use of current mail order buyers lists helps advertisers identify a new interest among people prone to ordering things by mail or phone, eliminating from any specific mailing those who don't usually buy that way. Most consumers look upon the activity as an in-home shopping service.

Most newspapers writers would like to mess up the system with ugly, slanted stories. To create an emotional response, they usually drag in pornographers to inflict guilt by association. This is a propaganda stunt. Pornographers are a breed unto themselves, and are far from the mainstream of legitimate business and the normal activity of local and national retail business. The only way pornos can exist is to use telephone books, or steal lists, or advertise their wares in mass media.

As the business magazine of sophisticated marketers, we take exception to the, at best misinformed, column written

by Jane Estes, and printed in the November 5th issue of The Arizona Republic. It is factually incorrect. Its tone is denegrating. It associates pornography with a very healthy activity called direct mail advertising. Her tone sadly reflects unsavoryness.

Young Barry Goldwater, Jr.(R-CA) is co-sponsor of a bill in the Congress, HR. 15525, which deals with invasion of privacy. His father supports a similar bill in the Senate. While there may be some problems with computerized data base, perhaps needing some national study, newspapers around the country seem quite willing to associate direct mail with invading one's privacy. We believe that most people do not believe this is so, based on how people respond to mail order ads in newspapers, magazines and direct mail, how they respond to coupons in the mail, and to the millions of shoppers sent out by food stores to help generate store traffic.

It does little good to rant and rave over trumped-up stories in the press. So I've re-written Jane Estes' story as it might have been written, to better reflect what goes on in the field of marketing. Since nearly all of us are employed by some business or other, it is in the public interest to explain how the complex marketing function of nearly all business operates. We've written Eugene Pulliam of the Arizona Republic, offering to come to Phoenix and conduct a seminar for his editorial staff. Meanwhile, you'll find the Estes story on the center spread, and our re-write begins here:

Estes Re-written

That advertising that we get so much of year round is particularly heavy now, before Christmas and at election time. And it is apparently here to stay.

It's part of an estimated \$25 billion, highly sophisticated advertising business, including direct mail advertising, including direct response advertising in mass media. The Direct Mail/Marketing Association estimates that about \$3.2 billion of the \$25 is spent for direct mail advertising by American business to generate leads for salesmen, develop traffic for our favorite stores, create sales by

telephone and mail, or to just plain advertise an idea or service or political candidate. The sales all of this generates, some \$560 billion in annual retail sales, keeps all of us employed, even me at The Arizona Republic.

Target of all of this advertising is the consumer and business man, whose names and addresses become part of the circulation lists of newspapers, magazines and customer/prospect lists of the 4 million businesses in this land of ours. The list is a vehicle by which your local newsboy, or the U.S. Postal Service, or UPS knows where to drop off your copy of the newspaper, magazine or direct mail piece. Not everyone gets everything, thank goodness, so an address is needed, or a very good memory by the deliverer.

For the businessman, the organization of list files on computer, or plates or 3 x 5 cards, provides him many routes to market. He can advertise in a newspaper or magazine which delivers his advertising message to the medium's fixed audience. But to eliminate waste, many advertisers will decide to bypass mass media occasionally and select their messages to go to just the people around a store, or to just those people all over the country who have shown an interest in knitting, for example.

A well-printed, 150-page magazine called "Direct Marketing" is a voice of sophisticated marketers. A glance through it, makes it appear that business has virtually unlimited ways to select interested prospects, from grandparents to school children, people who have written down his or her name and address on a direct mail order form, a coupon in a newspaper or magazine, or who has written or called in response to a radio or TV commercial. Thus your name may be on as many lists of firms as you have inquired or purchased from. Most firms look upon their lists as a family of customers to whom they write or send a catalog when they have something new that would interest them. It's quite a system, thoroughly ecological and many consumers find it a tremendous service, providing them with in-home shopping information.

Most businesses maintain their own files of customer and inquiry names. But some use the services of a service bureau

or direct mail house to maintain their files, and ask the direct mail house, when arranging for a mailing, to select certain names from their files, those people who have bought "X" product in the last year. Most cost conscious firms automatically drop people from their list who have not bought within two or three years, or who have asked to be removed since they are no longer interested. Most of the direct mail you receive, perhaps 80% of it, according to "Direct Marketing", is addressed to you by the firm you are doing business with from their own lists.

But businesses have to replenish their files of customers, some of whom move away, go to heaven, or come off the files for any number of reasons. So smart businesses go prospecting. They run a couponed ad in a newspaper, or magazine, or run a commercial on the air to encourage a new face to become a customer, even inquire. Some firms, like Ambassador Leather in Tempe, Arizona, in addition to media advertising (which is sort of like renting the publication's mailing list of subscribers), will rent portions of a mailing list of another advertiser. They have found that a mail order buyer of jewelry, for example, may well be interested in Ambassador's wallets. And so they are, for Ambassador prospects among millions of non-Ambassador families each year to find new customers. Today their list of customers totals nearly 3,000,000 people from all over the world who buy millions of dollars worth of high quality merchandise, bringing precious dollars into Arizona and providing employment for 100's of people.

Direct Mail Houses and/or their business customers can narrow lists down to a neighborhood, an age group, an occupation, even to those who own a '72 Chevy Bel Air, said Walter Kelly, public information officer for the U.S. Postal Service in Phoenix. The Postal Service's ZIP Code permits advertisers in search of business to select families in just certain ZIP Codes, and thus eliminate waste. "We wish more businesses used the mails", said Kelly, "for advertising mail is the most profitable mail the Postal Service handles. As a matter of fact, some 300,000 businesses have

permits to use 'bulk third class', a discount rate of postage made available to anyone who presorts ZIP Coded mail (saving postal work) and presents a sizeable volume to The Service for delivery.

"Direct Marketing" is an independent magazine published in Garden City, New York (11530), a business magazine (subscription \$12/year) which provides a forum for all kinds of businessmen interested in exchanging ideas on how to advertise more efficiently, how to lower costs. It is read by more than 16,000 marketing execs, including 2,500 members of the Direct Mail/Marketing Association (6 East 43rd St., NYC 10017). DMMA runs seminars, meetings for its members and college students all over the country. Has a Washington lobby which keeps its members informed of postal matters and legislation. It is not a mailing house, nor a mailing list house which rents lists, but an association of marketing executives, including Ambassador Leather of Tempe, Arizona. Readers of Direct Marketing include the owner of The Candle Tree, here in Phoenix, Alliance Rubber Company; Phoenix Publishing, Salvation Army, Jensen Tools, Motorola SemiConductor, advertising agencies, colleges, others who use direct mail and other media to stay in touch with people in their marketplace, each of whom has customer and prospect lists.

"An excellent way to get on a mailing list is to sign up for prizes at some place like the state fair," Kelly said. "Or if you open a charge account, or buy an insurance policy, or enroll your child in school, or subscribe to a magazine.

"You get your name on the State's list by getting your car registered or acquire a driver's license. In many states, the government will rent its lists to logical advertisers and earn income to help take the pressure off taxes. Fingerhut of Minnesota will send a mailing offering seat-covers to people who have just bought a new car and will offer the right size and shape to exactly fit the new car you've bought. Our local stores can have access to such information to send the new car buyer their congratulations and, not so incidentally, suggest an "adult toy" for

the buyer's new car, a stereo set, or extra speakers. It's a marvelously efficient system, eliminating at times of having to advertise a special item to everyone. This kind of advertising makes a lot of friends for the sender of the special offer. A new customer may spend thousands of dollars over a lifetime.

There are lists of accountants, pilots, architects, art collectors or auto dealers. Ads in "Direct Marketing" describe the hundreds of specialized markets available to business users of direct mail advertising. . . such things as 300,000 buyers of needlework, or 1,028,000 business executives by corporation title, or 3-million current book club members. Book club members can be narrowed down to the kind of books they buy. Highly efficient.

There's even an ad in "Direct Marketing" from The New York Times offering advertisers specialized distribution for their advertising along with the Sunday paper, just like direct mail.

Kelly said the best way to get off a mailing list is to write a letter directly to the advertiser, not his mailing house, or simply to not respond to future mailings. That works. For no business wishes to write to people who are not interested. Simply too expensive. Or you can write to The Direct Mail/Marketing Association and request that they notify major mailing list compilers and owners to mark their files so that your name will be skipped when a mailing of coupons, or catalogs and such is being addressed.

Or you can mark refused on mail you receive which carries the legend "Address Correction Requested". The Postal Service provides this service for business and the public so that unwanted mail can be eliminated. The advertiser must pay 10 cents for each piece of mail so returned. . . Any other mail marked "refused" goes into the post office waste-basket and is destroyed. So it's best to write the advertiser or call him if he's local or has an 800 IN-WATS number. . .

It doesn't happen very often, and usually then due to a mistake, but if you receive merchandise you didn't order, Kelly suggests that you return the package marked "Refused". That will tip off the sender to investigate and determine the source of the error. In any

case, you are not responsible to pay for anything you don't order. One person said that when he got a bill for some unorderd item, he sent the company a larger bill for storage of the item and never heard from the company again. Foolish prank, for businessmen tell me that it's tough enough these days to run a business, keeping their people on the payroll, without that kind of stunt.

If you're really curious about how business prospects for new customers, do something to your name when you order a subscription or respond to a newspaper and couponed ad. It won't always happen, but sometimes you'll notice your "fudged" name show up on a piece of mail from another business. You can tell whether that bus ness has really detected your interest. If your uniquely-formatted name does show up, you know that one advertiser is using some portion of another advertiser's own list. Lists are rented between some firms, said Kelly, because it provides highly efficient prospecting. These lists are never sold, but rented, usually through mailing list brokers. The volume is not large, probably no more than 3 billion addresses per year, or 14.3 pieces of mail per year for each of 60,000,000 families. Compare that to 90 billion pieces of all mail per year of which perhaps 25 billion pieces contain some sort of advertising. Compare that to billions of impressions made by thousands of advertisers in pages and hours in other media.

The only list a person can be sure of being removed from is one for pornographic literature, sent by just a handful of sharp operators. A person has a right to receive it if he wants it and can usually get on such a list by responding to the cheap ads in pulp magazines, or blind ads in classified sections of some newspapers. Only a few, courageous porno dealers would dare copy names out of the telephone book, but that's about their only source of lists. No legitimate business would permit his customers to receive such mail, for he simply wouldn't permit his list to be used for that purpose. Businesses who rent their lists to others are most careful, and generally ask to see the proposed piece of direct mail before he permits the rental, same as most publishers of magazines check their ads

before they are run.

But should you get on a porno list, you can make trouble for the outfit by filling out a postal form. The U.S. Postal Service notifies the porno dealer of the consumer's desire, and should the dealer send another piece of mail to that address, he can then be brought to trial and fined heavily.

Michael Groom, Arizona drivers' license supervisor, said he knows of no lists which were given out from that department, but that drivers' licenses are a matter of public record. Anyone may obtain names for \$1 a piece.

A spokesperson for the state insurance department said she knew of no lists which were given out on policyholders, but that a decision to do so would be up to the individual insurance company. Pete Hoke, publisher of "Direct Marketing" said there are some national insurance companies that do rent their lists to non-competitors, to people, for example, who offer books by mail. But insurance companies, themselves, rent a lot of lists to make mailings in search of leads for their salesmen. In these days of high costs, it makes sense to qualify a consumer's interest by mail before making an expensive, cold call. So they'll rent a list of people who qualify in the salesman's area. Or run an ad in a local paper to do the same thing.

Dr. Sid Borcher, associate in research and planning in the state education department, said, "No school in its right mind would give out mailing lists on its students. But of course, I really don't have the foggiest notion whether they do or don't. I've been told that there are many other ways to deliver advertising to students. Most information about companies dealing with schools, such as photography studies, goes to the home of the student. The mail to school is usually the result of a student responding to a newspaper ad, TV commercial or piece of direct mail. Students these days have lots of money, and spend it for a wide variety of things. So they represent a good market for department stores, record and book clubs, local haberdashery, on and on."

Eve Kessler at the Phoenix direct mail house, Mailings Inc., said it was difficult to state a fixed price for a list because

lists vary in size. Like newspaper and magazine advertising salesmen do, we quote a rate per thousand for names. While a newspaper may charge \$5 per thousand subscribers to run a full page, or \$30/m to insert a free-standing stuffer (direct mail piece) in the newspaper, the advertiser pays roughly \$30-\$35 per thousand for the list alone in direct mail to "outside" lists. Then he must pay to print his mailing piece, for envelopes, for order cards, for copy, for mailing service plus \$63/M for postage alone. So direct mail isn't exactly inexpensive.

Thus the pressure on the advertiser is to mail his offer to only those people he's pretty sure will be interested. Otherwise it won't work. The money will be wasted. The cost of sales will exceed income and he'll soon be out of business and his fine employees along with him.

Kessler said, "We do not actually sell a list but rent it for a one time use." Just like when you run an ad. You run it once for the cost of the space (or the right to reach the newspaper's readers once). "And for any list we maintain, if someone asks to be taken off a list, we have a rule, as most companies do, that the name must come off". That's something a newspaper can't do should a subscriber not want the advertising in his paper.

"But of course," said Kessler, "we're more of a service bureau for businesses who use direct mail. If they don't have the help within their business, then they call us in. There's so much to assemble. We must be sure that the mail is properly prepared for the U.S. Postal Service. That's why a commercial direct mail shop exists. Literature from many large agencies, such as Arizona Health Service or Arizona Education Department, are often prepared by direct mail houses. Kessler said, as are most campaign brochures and sample ballots. These are usually addressed to lists bearing the address only, usually maintained by a local lettershop. Would be too costly for a politician to maintain such a list, with all the thousands of changes, when he can rent it when he needs it for \$10/M. A great service to the voting public.

George Drum, general manager of Drum Letter Writing Service, said that his firm is not in the business of renting

lists as such. That's a highly specialized vocation, today, needing highly sophisticated computers which can select the right segments of lists depending upon the information in them.

"We have certain customers for which we do mailings from their own lists of customers or prospects, or in some cases we can rent mail order lists from brokers, or acquire a standard list from a compiler-specialist." The price of a list, which is but a small part of the total cost of a mailing, would depend on how difficult it is to compile or maintain, or whether it is a highly refined list or simply an easily compiled list. For instance, it's easy to get a list of doctors from the Yellow Pages, but it is more difficult to qualify for use of the doctor's list maintained by the American Medical Association, or from a medical journal whose list is available for specialized mailings. And the AMA list is expensive, because of the expense of maintaining information about the doctor's specialty and interests, updated regularly so that certain doctors are selected for only certain offers. Quite scientific. We can obtain a list of heads of corporations with over \$1 million in sales, by contacting Dun & Bradstreet, or referring to any number of other directories containing the same information, or renting the list from another business who maintains such a list. It is easier to maintain a list of names of companies rather than individuals because people move so often. The national move rate is about 25% a year. But when all is said and done, said Drum, list charges run about \$35/M pieces of mail, plus much, much more for the mailing materials and mailing preparation. There are about 3,000 such lettershops in the United States who serve as service bureaus for businesses who'd rather not do it themselves vs 1700 daily newspapers who deliver advertising in and with their newspapers.

If you are interested in lists and markets, you should go to the library and look at the directories published by Standard Rate & Data Service. They have a huge book for just newspapers, another one for general magazines, business papers and one for mailing list owners of

all kinds including publishers. Each carries listings of circulations and lists in some detail, showing demographic information, what kind of people you can reach by advertising in publications, average income, home ownership.

Matter of fact many publications permit their advertisers to send direct mail to their subscriber lists. The Los Angeles Times maintains a mailing list of all Los Angeles homes, some 3 million names on computer. The file is marked to indicate which names are home-delivered subscribers to the LA Times. For the local retailer, The Times can provide newspaper circulation for the retailer's catalog to some 900,000 homes, and mail circulation through the U.S. Postal Service or hand-delivery outfits, to reach non-subscribers to the LA Times. Quite sophisticated. And very efficient in eliminating wasted advertising shots.

Lists of names, of customers, of prospects, of former customers, is a universal phenomenon, as common to business as is your Christmas card list at home, or the membership list of your church. If you wonder about direct mail at times, you may find the following of interest, written by Mr. John D. Yeck of Dayton, Ohio, who runs a specialized direct mail agency there:

Girls need boys.

Oh, girls may complain that boys pester them from time to time and they really might not like this one or that one, but take *all* the boys away and they won't like it. Of course, there are some unusual girls who don't like *any* boys, but they're rare.

Buyers need sellers.

Oh, buyers may complain that sellers pester them from time to time, and they really might not like this seller or that seller, but take *all* the sellers away, and most buyers would be in deep trouble - they wouldn't like it.

What do buyers *really* want? They're just like girls. They want to hear from all the sellers they like, and from as few as possible of the sellers they don't like.

That's exactly what sophisticated, computerized mailing lists try to do for buyers.

The whole idea of specialized lists is to *reduce* the amount of wasted mail...mail to people not likely to be interested in it. Mailers don't want even one uninterested person to receive their mail, any more than people want even one piece of mail they don't care about.

Obviously, it costs less to mail to a small list with a high concentration of people who are likely to buy than it does to contact everyone. That means the cost of distribution is lower. Lower costs don't always mean lower prices, of course, but there is *no other way* to keep prices down.

If critics would look at mailings from the viewpoint of *buyers* (people who "vote" in favor of specialized mailing lists every day by buying special items through the mail) they'd quickly see the value of computerized lists.

Buyers are served best when they learn about the products they want by the least expensive method. That's the only reason for sophisticated lists.

The more specialized the lists you're on, the *better* chance you have to learn about the items *you* want.

The more specialized lists there are available, the *less* chance you have of getting mailings about things you *don't* want.

As long as lists of pregnant ladies exist, fat, bald-headed bachelors are less likely to have to look at or listen to ads for bassinets and baby food.

People who want to eliminate waste and cut product costs ought to cheer the "sophisticated" list users. They have mutual objectives: to spread information economically.

P.S. If you've tried to find any specialized items in smaller town department stores lately, you'll have more sympathy for the buyer's position. Buyers *need* specialized mail: girls need boys.

And this, by John Yeck which appeared in August issue of *Direct Marketing* (224 7th Street, Garden City, New York,

I deplore the developing attacks on commercial mail as "unsolicited" and, therefore, something "bad" that the government should stop...as though "soliciting" made something "good" for heaven's sake.

Columbus wrote unsolicited to Isabella; Einstein wrote unsolicited to Roosevelt; Paul, I imagine to the Corinthians. So it's foolish to think of unsolicited messages as necessarily undesirable. But the idea that unsolicited mail should be stopped by an edict of the state is

not only dumb, it's dangerous, regressive and, what's more, would prove extremely unpopular.

A moment's thought will make it clear that the essence of the "free speech" clause in the First Amendment is *not* only the freedom to *speak*, but the guarantee that speakers can be heard...a protection for the people to know; for a guaranteed freedom to speak only to empty halls is an empty freedom.

The beneficiaries of free speech are only incidentally the speakers, who thus feel "free." The greatest beneficiaries are those who become possessors of the intellectual, political, religious, commercial or other ideas which are set loose. With the help of the First Amendment (and for that matter, the Declaration of Independence), the People are free, without "guidance" from the State, to *accept* or *reject* such loosed ideas and information at their option. The founding Fathers were intent on the people hearing, as well as speaking freely.

To deny ideas because they were unsolicited would have kept the world flat, and when unsolicited thoughts or information, in any form, are barred from Society because its members do not previously desire them, Society suffers most. The First Amendment protects the People from a State that would stop or control the flow of information far more than it protects a Speaker.

Blocking the flow of unsolicited commercial information through the mail would prove *unpopular*, as well as *regressive*.

The result of a recent survey to businessmen seems to indicate this. When faced with the opportunity to accept or reject "unsolicited mail" from unknown advertisers, on a concrete rather than abstract basis, they voted 9 to 1 for. This survey was made for practical reasons...to evaluate the list, which is another way of saying "to test computer-selected mailing lists' ability to reduce the amount of truly unwanted mail."

Should the opinions of less than 1/2 of 1% (or even 10%) of the public keep unsolicited mail from those who either want it or are willing to accept or reject it themselves?

An interesting question, but one which pales before the greater one: Should any percentage of an audience, no matter how great, so control the flow of unsolicited information that others, no matter how small, are denied the *opportunity to hear*?

This is not a minor question. Power corrupts. Absolute power corrupts absolutely, and the power of the State to prevent or control the transfer of information—intellectual, political, religious, commercial, or any other...is a power rejected by the First Amendment.

[The nine questions and answers which follow were received by the subcommittee for the record from representatives of the Reader's Digest, subsequent to their appearance:]

Question 1. You mention that mail service is neither better nor worse than ten years ago. Yet our complaints have increased astronomically since the passage of the Postal Reorganization Act. Can you explain this?

Answer. My testimony as to the overall level of mail service today, compared to that of ten years ago, speaks to the general level of service, not to certain peaks and troughs. If, for example, the average delivery time for a letter between two points ten years ago was three days, it may be that there was great consistency to that standard ten years ago for a variety of reasons, including a rather reliable railway transit service. It could very well be possible that the average is still three days for delivery between these two points, but that average would be achieved by a substantial amount of the mail taking less time, for example, two days, and some mail taking perhaps five days. The average delivery time would still be three days, but there would be specific instances where postal customers would be extremely disturbed that a particular letter that they were waiting for now took five days to reach the destination.

If complaints to USPS have increased since the passage of the Postal Reorganization Act, it may be because the well-publicized new office of the Consumer Advocate attracts them, or it may be that the present methods of reporting these complaints are not comparable to the methods previously used.

Question 2. Is your data precise enough to pinpoint areas of the country which have unusually poor mail service? If so, can you indicate these areas?

Answer. Our data is generally broken down by state, and it shows variations in normal transit times from the points of mailing to each state.

Question 3. You indicate that from 1968 to 1973, Postal Service wages and benefits increased at only a slightly greater rate than those of United Parcel. Yet United Parcel has been quite successful while the Postal Service seems to fall increasingly in debt. Is this solely because labor costs are a lower percentage of United Parcel's operating expenses, or are there reasons other than rising labor costs for the Postal Service deficit?

Answer. I do not know enough about the operations of the United Parcel Service to answer this question. Perhaps this is a subject which the Committee staff might wish to study.

Question 4. You show a significant jump in wages and benefits for the Postal Service in 1974 and 1975. Do comparable figures exist for United Parcel?

Answer. No such figures are available to me.

Question 5. Can you compare median income for postal employees to the national median income in 1967 and 1974?

Answer. I am informed that the 1974 data for Median Income U.S. Households is not yet available. Here is a comparison of the years 1968 and 1973 using data appearing in Exhibits D and E of my testimony :

	1968	1973
Median income U.S. households (source: U.S. Department of Commerce, Bureau of Census P-60 series).....	\$7,746	\$10,512
USPS salaries and benefits per man-year (source: USPS annual reports).....	7,687	12,194

Question 6. You say that the Postal Service is a better place to work for now than ever. Yet we have seen what appears to be a steady decline in morale, allegations of increased absenteeism and poor local labor-management relations in some areas. Why should morale appear to plummet if the Postal Service is a better employer?

Answer. From the information I have and based on conversations I have had with postal personnel, it does appear to be true that there has been some decline in morale and an increasingly frayed relationship between labor and management. It seems to me that the appearance of a frayed relationship between labor and management is quite understandable in view of their new face-to-face relationship with each other across the bargaining table, now that postal wages are no longer set by Congress.

Question 7. You suggest that the subsidy be tied to a specific purpose e.g., delivery. If we moved in this direction, how could we stop the Postal Service from simply adding a similar sum to other functions and thus continue the spiraling of costs which cause higher postal rates. In other words, how can Congress really have adequate oversight without annual authorizations?

Answer. It must be realized that when postal reorganization was passed, a fundamental tenet of reorganization was that the Congress was no longer going to dictate to the Postal Service how it would spend its revenues and how much of its revenues it could spend. The Congress has given up that power. Unless the Congress is willing to resume full control over all spending by the Postal Service, there is no practical way that the Congress can control postal expenditures simply through the device of controlling a small part of the expenditure which the Congress itself appropriates, as distinguished from the revenues raised through the sale of postage. On the other hand, Congress can clearly have adequate oversight through vigorous investigations and hearings such as this sub-committee itself is undertaking; the Congress clearly did not give up its oversight authority and its investigative authority over the Postal Service. It merely gave up the final power to tell the Postal Service how it was to spend its revenues.

It is a fallacy to believe that the Congress can control postal expenditures through an annual authorization process. It can, of course, control the manner in which the funds that are appropriated by Congress are expended; however, at present the Congress appropriates less than ten percent of the Postal Service's expenditures, and both under Congressman Hanley's proposal and under the proposal we have made, the Congress would only appropriate twenty percent. Clearly, under either mechanism, the Congress could not control how the Postal Service spent the other 80 percent of its expenditures. And it is not necessary to have annual authorizations in order to control the manner in which appropriated monies are spent. For example, under our proposal, Congress would have decreed in advance that the monies it appropriates can be spent only for the performance of the delivery function of mail.

Question 8. You suggest that costs attributed to various classes of mail be based on whether or not any costs could have been avoided if services for the class were not performed at all for two years. Wouldn't this lead to a fairly significant increase in attributable costs?

Answer. In my judgment the application of such a standard for determining when a cost is attributable would not lead to any significant increase in what the Postal Service describes presently as attributable costs. It must be borne in mind that the current Postal Service definition of an attributable cost is one which varies directly with volume in the short term, meaning from year to year. Our proposed standard would simply state that a cost is attributable to a particular class of mail if two years after the total discontinuance of servicing such mail, the costs have been completely avoided. I believe the application of such a standard might, in fact, cause a reduction in attributable costs, for the simple reason that there are a number of costs which the Postal Service presently attributes to particular classes of mail which would clearly remain as system costs two years after the elimination of that particular service. For example, in my judgment, the elimination of third class bulk mail as a service would not materially reduce the clerk and mail handler in office costs presently incurred by the Postal Service over the next two years. Since bulk third class mail is handled primarily in the down time or off-peak times when the postal labor force is already on the clock, it would seem that very few of those employees could be surplused and still have the capacity in the Postal Service to handle all of the remaining classes of mail. On the other hand, there may be certain cost components which the Postal Service presently characterizes as nonattributable which, upon analysis, and the application of our standard, would lead to a conclusion that they are attributable. But by and large, I believe that the application of our standard would not produce any significant increase in the total amount of attributable costs.

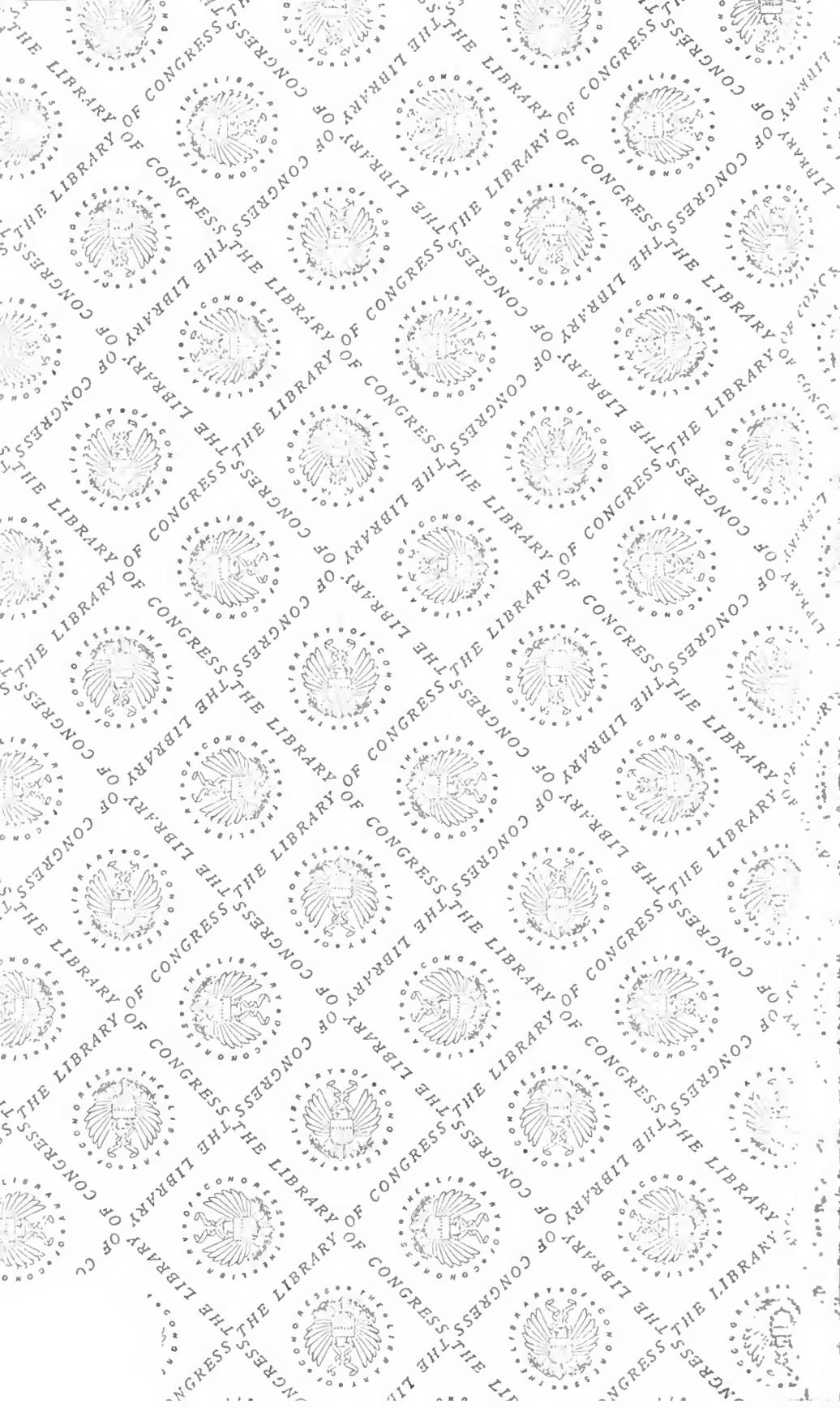
Question 9. Would you comment on proposals to limit postal rate increases to percentage increases in the consumer price index?

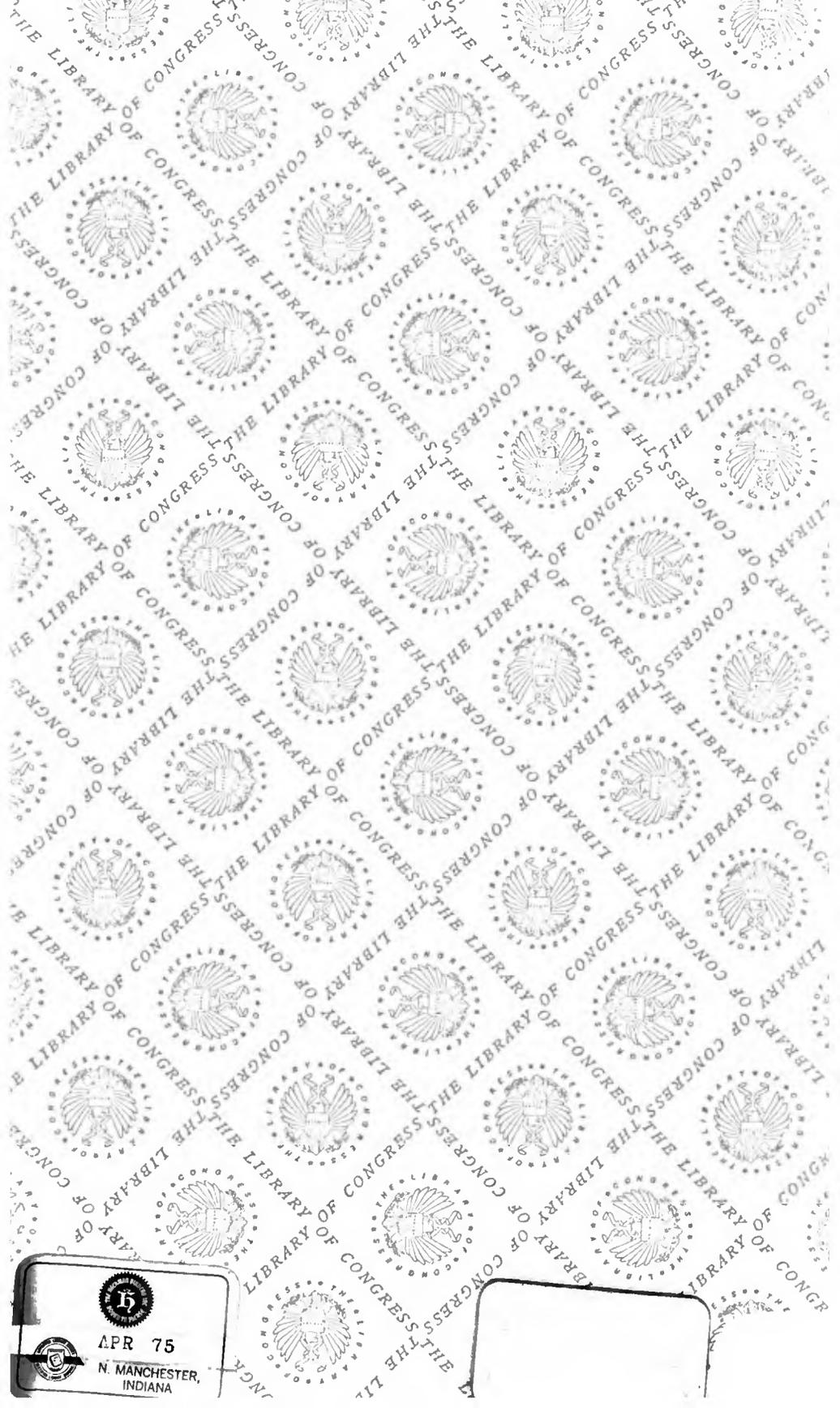
Answer. Given the postal rate increases which we have experienced in the last four years, compared to the increases in the Consumer Price Index, quite obviously from a selfish point of view the Reader's Digest would have much preferred to have seen postal rate increases limited to the increase in the Consumer Price Index. However, it is only fair to point out that the Consumer Price Index is a composite listing which would, on analysis, show that certain

products or services had increased by substantially larger amounts than the composite index and, conversely, other services and products had increased by a lesser amount. Quite obviously, unless Congress were also to limit postal wage increases (which constitute 85 percent of the cost of running the Postal Service) to the same standard, a limitation of rate increases to the Consumer Price Index increase would produce a shortfall of revenue. On the other hand, of course, if Congress is ready and willing to make up the deficiency in the revenue shortfall, well and good. What I do believe is significant, however, is that the postal customer, and the Rate Commission, are certainly prompted to examine very closely the whys and the wherefores when postal rates do increase at a rate faster than the Consumer Price Index.



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